

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.26305 OF 2003

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare that sub-rule (4) (a) of Rule 12 issued in G.O.Ms.No.180 dated 29.12.2000 has no application to absorption to the aided posts are concerned and consequently to direct the respondents to grant regular scale of pay from the date of absorption of the petitioners in the aided post without treating them as apprenticeship with all consequential benefits including monetary, seniority, etc.

The petitioners were selected as B.Ed.Assistant (Maths)/ Secondary Grade Teacher, as the case may be, in the un-aided posts of 5th respondent. The first respondent issued individual proceedings approving the said appointments. As per the orders of this Court in W.A.No.1519 of 1999, respondents 4 to 6 submitted proposals for absorption of the petitioners in the aided posts. Accordingly, petitioners were absorbed in the aided vacancies. The first respondent issued G.O.Ms.No.100 Education Department dated 16.08.2001 informing the respondent-Management to appoint the petitioners as Apprentice and after completion of the apprenticeship period only, the petitioners are entitled for regular scale. Accordingly, the petitioners were paid stipend. By virtue of amendment to G.O.Ms.No.180 dated 29.12.2000, the first respondent issued absorption order directing respondents 4 to 6 to issue appointment order as apprenticeship. Aggrieved by the same, the present writ petition came to be filed.

In identical set of facts in ***State of Andhra Pradesh v. Dantu Kumamgeswara Venkata Kumara Ratnakar***¹, the Division Bench of this Court held as follows:

“G.O.Ms.No.180 dated 29.12.2000 and G.O.Ms.No.100, dated 16.08.2001, are not clear as to whether it is only the candidates, who are selected afresh, to work against aided vacancies, that must be required to undergo the apprenticeship, or even those who were absorbed. Whether one goes by reason or logic, the question of a teacher whose appointment has already been approved and has been working on regular pay, being required to undergo apprenticeship on being absorbed against a aided vacancy, does not arise. The apprenticeship is a phenomenon, which is almost equivalent to training or probation, to be undergone by an employee at the threshold of his appointment. Obviously because the performance of the candidate is yet to be observed, the emoluments during that period are kept at a low lever. In the instant case, however, the 1st respondent whose appointment has already been approved in the year 2001, has been treated as apprentice in the year 2004 on being absorbed against aided vacancy. Such a course is contrary to law.”

Following the same, the Single Judge of this Court allowed similar W.P.No.2272 of 2011, with the same prayer to that of this writ petition.

Learned counsel for the petitioners as well as the learned Government Pleader concedes that this writ petition is covered by the orders passed in W.P.No.2272 of 2011 dated 01.02.2016 and W.P.No.15493 of 2001 dated 28.06.2018.

Accordingly, this Writ Petition is allowed. The respondents are directed to pay the petitioners the regular time scale applicable

¹ 2015 (6) ALD 216

to them from the date of their absorption instead of placing them on a monthly stipend. The amounts payable to the petitioners, consequent to this order, shall be computed and remitted within a period of three months from the date of receipt of a copy of this order.

Miscellaneous petitions pending in this petition, if any, shall stand closed. No order as to costs.

(M.GANGA RAO, J)

20th July, 2018

Note: A copy of order dated 01.02.2016
in W.P.No.2272 of 2004 be enclosed
to this order.

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