

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.14959 OF 2001

ORDER:

This writ petition is filed seeking a direction to the respondents to promote the petitioner as Lecturer in Chemistry in SKVT Degree College, Rajahmundry as per the proposals sent on 17.05.2001 by the first respondent by declaring the advertisement dated 10.07.2001, issued for filling up of the vacancies of Lecturers in Chemistry, as illegal.

The brief facts of the case, according to the petitioner, are that the petitioner passed his M.Sc in Chemistry and was initially appointed as Lecturer in M.S.N. Junior College, Kakinada on 27.1.1981 in a clear aided post. After serving for more than eight years, the petitioner was declared as surplus staff on account of the shortage of work load. When the petitioner approached the then Director of Intermediate Education for posting him in any aided college, he was transferred and posted to V.T Junior College, Rajahmundry in aided post. V.T. Junior college, S.K.R College for Women and V.T. Degree College are all run by the Hithkarni Samaj founded by late Sri Veeresha Lingam Panthulu garu and the said colleges are constituted as one unit for the purpose of appointment, promotions, transfers etc. The said Samajam was taken over by the Andhra Pradesh Endowments Department in the year 1989. The Executive Officer is the Correspondent of all the educational institutions. The promotions are made depending upon the qualifications, eligibility and suitability. The vacancy for the post of Lecturer in Chemistry arose on 15.10.1990. The Government issued G.O.Ms.No.127 (Education (CE.I) Department)

dated 7.6.1993 prescribing the method of appointment/recruitment by transfer to the posts of Lecturers under the same management and according to the said G.O, out of four vacancies of Lecturers in Degree Colleges, the 1st, 2nd and 3rd vacancies in each college have to be filled up by recruitment by transfer from among the eligible, qualified and suitable Junior Lecturers working under the same management and in the absence of such Junior Lecturers, those vacancies shall be filled up by direct recruitment and the 4th vacancy shall be filled up by direct recruitment. The petitioner made an application for consideration of his case as per the G.O.Ms.No.127 (Education (CE.I) Department) dated 7.6.1993 and G.O.Ms.No.280 (Education (HE.1) Department) dated 15.11.1990. The first respondent forwarded the said proposal to the 3rd respondent. While so, S.K.R College for Women - the 1st respondent issued a notification in Eenadu Daily Newspaper inviting applications to fill up the posts of Lecturers in Chemistry. A post of Lecturer is a promotion post and the rule of reservation does not apply to the same even as per the proceedings of the Director of Higher Education dated 16.1.1984. G.O.Ms.No.599 (Education (J) Department) dated 30.12.1983 was issued for implementation of the rule of reservation in respect of teaching staff in private degree colleges and according to which the entire college should be regarded as one unit for the purpose of recruitment. The first respondent himself sought permission for promoting the petitioner and hence the issuance of the advertisement calling for applications is illegal.

When the writ petition came up for admission on 07.09.2001, an order of status quo was passed by this Court. The

1st respondent filed W.V.M.P.No.575 of 2002 seeking vacation of the said status quo order.

In the affidavit filed to the said vacate stay petition, it is stated by the 1st respondent that there are specific orders from the Government for filling up the vacant posts of teaching and non-teaching staff existing in Aided Colleges. The Commissioner of Collegiate Education also issued specific instructions for filling up of the vacant Lecturer posts in the college of the first respondent vide proceedings dated 2.6.2001. As per the said instructions, the Lecturers in Chemistry existing in the first respondent college i.e., S.K. R. College for Women, Rajahmundry should be filled up by direct recruitment, which is meant for SC/ST backlog vacancy. One vacancy should be filled up by SC-A women and other has to be filled up by ST women. Interviews for selection of the above candidates were also held on 31.8.2001 and a women SC candidate was recruited for first vacancy and the ST women vacancy could not be filled up, as no candidates belonging to ST women attended to the interview. It is further categorically stated that the petitioner does not have any right over the existing vacancy of lecturers in Chemistry, which is meant for direct recruitment, and to the S.T women under SC/ST backlog.

This Court on 7.6.2002 disposed of the said vacate stay petition by vacating the interim order granted on 7.9.2001 and the 1st respondent-College was given liberty to fill up the existing vacancy of Lecturers in Chemistry in its degree college by the process of selection for direct recruitment held by it. The 1st respondent was, however, directed to communicate in the order of

appointment to be issued to such an appointee, that the appointment is subject to the result of the writ petition.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for the respondents 2 and 3.

As seen from the proceedings of the Commissioner of Collegiate Education dated 2.6.2001, which have been referred to in the counter affidavit filed by the 1st respondent, the posts of Lecturers in Chemistry should be filled up by direct recruitment for clearing the SC/ST backlog vacancies. Even the advertisement issued by the 1st respondent, clearly shows that it is for limited recruitment for clearing the backlog vacancies and the applications are invited from the S.C and S.T candidates. Two posts were reserved for S.C-(1) Women-A category, one post was reserved for S.T-(1) Women category, one post was reserved for S.C-(1) S.C.-B (Women) and one post was reserved for S.C-(1) S.C-C (Women). Admittedly, the petitioner is neither S.C nor S.T candidate and the petitioner is a male candidate, who does not belong to either S.C or S.T., whereas, the notification was issued for S.C and S.T candidates.

G.O.Ms.No.280 (Education (HE.1) Department) dated 5.11.1990 deals with the appointment of the posts of Lecturers in Degree Colleges. Even according to the said G.O, such of the Junior Lecturers, who are eligible for promotion according to the existing promotion rules, shall be considered in the first instance. Admittedly, as the petitioner is not a woman and does not belong either to S.C or S.T category, he is not eligible for promotion to the said post.

The petitioner relied upon the G.O.Ms.No.127 (Education (CE.I) Department) dated 7.6.1993, where under the procedure of selection of the teaching staff amendments have been made. Petitioner mainly relied upon the paragraph No.4 of G.O.Ms.No.127 dated 7.6.1993 where under out of four vacancies of Lecturers in Degree Colleges, 1st, 2nd and 3rd vacancies in each college shall be filled up by recruitment by transfer from among the eligible, qualified and suitable Junior Lecturers working under the same management and in the absence of such Junior Lecturers, those vacancies shall be filled up by direct recruitment and the 4th vacancy shall be filled up by direct recruitment. The said G.O also says that the recruitment by transfer can be made among the 'eligible', qualified and suitable Junior Lecturers under the same management. The petitioner is not eligible even according to the said G.O to the said post.

Petitioner also relied upon G.O.Ms.No.599 (Education (J) Department) dated 30.12.1983 and submitted that teaching posts in Degree and Post Graduation Courses in each private Degree Colleges shall be recorded as one unit for the purpose of recruitment and the said G.O was issued for implementation of Rule of Reservation in the matter of recruitment of teaching staff in the private Degree Colleges. The Rule of Reservation has to be followed when the college is treated as one unit. Even the said G.O does not confer any right on the petitioner for the said post.

As the advertisement has been issued for limited category for clearing the backlog vacancies of S.C and S.T Women, the petitioner is not eligible to be promoted for the aided post, which

was reserved for S.C and S.T candidates under limited recruitment for clearing backlog vacancies in the 1st respondent college.

In view of the facts and circumstances as explained above, there are no merits in the writ petition and accordingly the writ petition is dismissed. No order as to costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

Date:31.01.2018.
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KONGARA VIJAYA LAKSHMI, J



THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



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