

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.11162 of 2005

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction, more particularly one in the nature of Writ of Certiorari as under:

(a) to call for the records relating to and connected with the Notification No.PSTU/Admn/T3/2005, dt. 3.4.2005 issued by the 1st respondent for the purpose of recruitment of Assistant Professors in Department of Music, Department of Sculpture and Painting and Department of Theatre Arts and declare the same as arbitrary, illegal, unwarranted and violative of Articles 14 and 16 of the Constitution of India.

(b) direct the respondent University to consider the cases of the writ petitioners as eligible for being recruited to the post of Assistant Professors/Lecturers on regular basis as they are all professional artists of highly commendable achievements in their fields of study and pass such other order or orders in the interest of justice.”

As can be seen from the record, it appears that during pendency of the writ petition, the 1st respondent-University has filled up the said posts. Insofar as the prayer that the petitioners are eligible for being recruited to the posts of Assistant Professors or Lecturers on regular basis, is concerned, they were appointed way back during the Academic Year 1989 and 1990 as Instructors and they are continuing since then. In the year 1998, the petitioners have filed W.P.No.8770 of 1998 before this Court and the same was

allowed on 4.9.1998. The operative portion of the said order reads as under:

“For the aforesaid reasons, the writ petition is disposed of with a direction that the 2nd respondent shall consider the case of the remaining petitioners for absorption as Project Assistants keeping in view G.O.Ms.No.212 within a period of two months from the date of receipt of copy of this order.

It is also further directed that the 1st respondent-University shall also consider the cases such of the petitioners who fulfil the requirements for appointment to the post of Reader, Lecturer, Assistant Professor as the case may be subject to their selection by the Selection Committee.

Pending consideration of their cases for regularization, since the petitioners have been discharging the functions of Teaching Staff/Instructor, it is necessary that they should also be paid with regular scales of pay attached to the post. Accordingly, the 1st respondent is directed to pay regular scales of pay attached to the post 2750-5960 (Pay of Assistant Lecturers) pending regularisation of their services from 1.4.1998.”

Aggrieved by the said order, the respondents have filed W.A.No.1730 of 1998 before a Division Bench of this Court. The Division Bench *vide* order dated 3.12.2002, partly allowed the same. The operative portion of the order reads as under:

“In order to avoid further controversy, we direct the Government of Andhra Pradesh represented by its Principal Secretary, Higher Education (respondent No.20 herein) to consider the cases of the respondents-writ petitioners for regularisation of their services in terms of the said directions issued by the learned single Judge in W.P.No.8770 of 1998, dated 4.9.1998, within eight weeks from the date of receipt of a copy of this order. It is needless to observe that the

payment of regular scales of pay shall depend upon the decision of the Government regarding regularisation of the services of the respondents-writ petitioners. There shall be no order as to costs.”

Learned counsel appearing for the petitioners submits that in spite of the directions in the said W.P.No.8770 of 1998 and W.A.No.1730 of 1998 to consider the cases of the petitioners for regularization, their services are not regularized.

Learned Standing Counsel appearing for the 1st respondent-University contends that in pursuance of the notification issued by the 1st respondent-University, posts were filled up and the cases of the petitioners were considered and that since the petitioners **did** come up within the zone of consideration, their cases were not considered.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the 1st respondent-University is bound to comply with the order dated 4.9.1998 passed in W.P.No.8770 of 1998, which was confirmed *vide* order dated 3.12.2002 in W.A.No.1730 of 1998.

Therefore, this writ petition is disposed of directing the respondents to regularize the services of the petitioners within

a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

3rd October, 2018
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