

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.26285 OF 2010

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in not admitting the petitioners into grant-in-aid posts, as arbitrary and illegal, and consequently, to direct the respondents to admit the petitioners into grant-in-aid posts with effect from the date of their regularization of their services.

2. Subsequently, the above prayer was amended as follows:

“to issue a Writ of Mandamus declaring the action of respondents Nos.1 and 2 in not permitting the 3rd respondent to absorb the petitioners in aided vacancies arose in (1) Sri Durga Malleswara Siddhartha Mahila Kalasala, Vijayawada; (2) P.B. Siddhartha College of Arts & Science, Vijayawada and (3) AG & SG Degree College, Vuyyur, Krishna District, which are under the same management namely ‘Siddhartha Academy of General and Technical Education, Vijayawada’, or in any other aided college in which aided vacancy is existing, as illegal and arbitrary, and consequently, to direct respondents Nos.1 and 2 to permit the 4th respondent to absorb all the petitioners as lecturers in aided vacancies of their respective subject.”

3. Heard Sri G. Gangaiah Naidu, learned Senior Counsel on behalf of Sri N. Bharat Babu, learned Counsel for the petitioners and the learned Government Pleader for Education.

4. It is the case of the petitioners that they are fully eligible and qualified to be appointed as lecturers and they responded to the notification issued by respondents Nos.3 and 4 during the period from 1985 to 1995. All the petitioners were appointed as per G.O.Ms.No.12, dated 10.1.1992 and the competent authority was also pleased to approve their appointments. While they have been discharging their duties, aided vacancies have arisen. They have been requesting respondents Nos.1 and 2 to absorb them in aided vacancies as they have been discharging their duties as lecturers in 3rd and 4th respondent colleges and their appointments as lecturers were also approved by respondents Nos.1 and 2. But respondents Nos.1 and 2 are not considering their case for absorption on the ground that the aided vacancies should be filled up by way of notification but not by way of absorption. Aggrieved by the same, the petitioners filed this writ petition.

5. Learned Counsel for the petitioners contended that similar issue fell for consideration before this Court, in respect of lecturers, whose services were approved by the competent authority in unaided services and who were absorbed in aided vacancies when the aided vacancies has arisen in the same management, in W.P.No.14482 of 2011 dated 14.2.2011 and the matter was carried in appeal by filing W.A No.1047 of 2012 by the respondents therein and the said WA was dismissed

vide order dated 5.9.2012 and the matter was further carried to the Hon'ble Supreme Court by filing SLP (Civil) No.38336/2012 and the Hon'ble Supreme Court was pleased to dismiss the same on 7.1.2013. He further contended that in another case, the same issue fell for consideration viz., W.P.No.20036/2003 dated 13.10.2013 which was confirmed in WA No.1462 of 2017 dated 10.10.2017 and by the Hon'ble Supreme Court in SLP No.34262/2017 dated 9.1.2018, and therefore, appropriate direction may be issued to respondents 1 and 2 to absorb the petitioners in aided vacancies as they have fulfilled all the eligibility criteria for absorption in aided vacancies.

6. The learned Government Pleader for the respondents contended that respondents Nos.3 and 4 were sanctioned grant-in-aid only in respect of arts, stream of courses, and no aid was provided to the science and other related subjects, and therefore, the question of considering the cases of the petitioners for admittance into grant-in-aid posts by way of absorption in the courses for which no grant-in-aid was provided, would not arise, and the writ petition is liable to be dismissed as it is devoid of merits.

7. This Court having considered the rival submissions made by the parties is of the view that from the law laid down by this Court in W.P.14482 of 2011 and W.P. No.20036 of 2003, it is very clear that if any aided vacancies arise, respondents Nos.1

and 2 must fill up the said vacancies with the available unaided approved lecturers. Since the aided vacancies arose in the subjects where the petitioners are working, their cases deserve to be considered for admittance into grant-in-aid as they were appointed as per rules and their appointment was approved by the competent authority.

8. Accordingly, the Writ Petition is disposed of directing respondents Nos.1 and 2 to consider the case of the petitioners for absorption into grant-in-aid vacancies, if they were appointed in accordance with the rules and their appointments were approved by respondents Nos.1 and 2, by duly taking into account the orders passed in W.P.No.14482/2006 dated 14.2.2011 and W.P.No.20036/2003 dated 13.10.2013, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 3rd October, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Dated: 03.10.2018

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