

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.5094 OF 2001

ORDER:

Petitioner filed this Writ Petition seeking to issue a writ of Mandamus declaring the action of the respondents in not regularizing the services of the petitioner as lecturer in Political Science Department of the first respondent-College as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to appoint the petitioner as permanent lecturer in Political Science Department of the first respondent-College.

Case of the petitioner is that he passed M.A. (Political Science) in the year 1988 with 56.10% of marks. Immediately thereafter he joined as a lecturer in Political Science in an aided vacancy at Government Junior College, Mamidikuduru, East Godavari District and worked as such from November, 1988 to July, 1989. Thereafter, he worked as a lecturer in C.D.P. Coop Junior College, Amalapuram, in an unaided vacancy and worked from January, 1990 to August, 1993. Later, on 26.08.1993 he joined as a lecturer in the first respondent-College in an unaided vacancy and working as such till date. In first respondent-College in Political Science department, as per sanctioned strength, there are total five sanctioned aided lecturer posts, out of which four regular permanent lecturers were available at the time of joining of the petitioner i.e. on 26.08.1993. That apart, two other temporary lecturers, who are seniors to the petitioner, were also working in the unaided vacancies. Out of them, one Sri G.Nageswara Rao was not qualified for appointment as lecturer as he did not secure the

required marks of 55 % in his P.G. examination. Therefore, he was appointed as a Junior Lecturer after obtaining necessary approval from respondents 2 and 3. Services of another senior lecturer by name Sri K.S.R.Subrahmanyam were regularized as a permanent lecturer in the 5th vacancy w.e.f. 02.04.1998 vide proceedings in R.C.No.321/DC/1-3/97-98 dated 02.04.1998 of the third respondent. On 31.10.1998 one Sri R.Venkateswara Rao, one of the permanent lecturers in Political Sciences Department, has retired and as a result, one of the aided post fell vacant and the same is still vacant as on date. Petitioner states that he is fully qualified and eligible for regularization of his services as lecturer in Political Science Department in the first respondent-College as per the norms of the Government. Though a clear aided vacancy of lecturer in the Political Science department is available, the respondents are not regularizing the services of the petitioner as a permanent lecturer in the aided vacancy. Thus, questioning the inaction of the respondents in regularizing the services of the petitioner, the present writ petition came to be filed.

The Joint Director O/o.The Commissioner of Collegiate Education, Hyderabad, filed counter affidavit on behalf of respondents 2 and 3 stating that the petitioner was appointed as Adhoc lecturer in Political Science during the year 1993 by the Management without following the guidelines issued in G.O.Ms.No.190 Edn. Dtated 10.01.1992 and G.O.Ms.No.12 Edn. Dated 23.02.1991. The respondent came to know about the appointment of the petitioner only when the petitioner filed the present writ petition. The government issued G.O.Ms.No.328 Education dated 15.10.1997 to regularize the services of part time

lecturers, who are working in the college prior to 1988-89 and completed five years of academic services as on 25.11.1993 and working in the college as on 15.10.1997. The said G.O. also relaxed the rule of reservation in favour of the part time lecturers and carry forward the same to future vacancies also. Accordingly, the services of all the part time lecturers including K.S.R.Subramanyam were regularized and thus regularization orders were issued as per rules. Further, during the year 1999 the Department has conducted meeting of all Correspondents/ Principals of Aided Degree Colleges in the State for verification of Communal Roster register of each college with the concerned Social Welfare and Tribal Welfare Departments. Said Departments have verified and identified the backlog of SC/ST posts in each college. As per the backlog of SC/ST arrived/certified by the Social Welfare and Tribal Welfare Department, the Commissioner of Collegiate Education has issued instructions/permission to fill up the Teaching & Non-Teaching posts by clearing the backlog of SC/ST duly verifying the aided workload particulars and strength particulars of the college. Accordingly, certain Managements of Private Aided Colleges have filled up the SC/ST backlog posts and Department has also approved the same. In the first respondent-College, the backlog vacancies arrived by the Social Welfare Department are (13) S.C. and (6) S.T. The Management has already cleared (6) S.C. vacancies and process for recruitment for the remaining (7) S.C. and (6) S.T. vacancies is completed and pending approval of the third respondent. The first respondent has not followed any rule of reservation in completion of SC/ST backlog. The backlog derived by the Social Welfare Department is

based on the College as a unit. The petitioner is working as an adhoc lecturer in Political Science Department against the un-aided workload. As on date, there are no vacancies and as and when the vacancies arises in the concerned subject, the petitioner has to face the selection process as per the rotation in the communal roster and if he is selected his case will be considered for regularization as per rules.

Sir Krishna Murthy, learned counsel for the petitioner, would contend that the petitioner was appointed as a lecturer in Political Science Department in an un-aided vacancy in the first respondent College on 26.08.1993 and he belongs to S.C. category. The first respondent-College dodged the matter all these days by not sending the petitioner's case for regularization. However, on 16.12.2003 the first respondent College sent a proposal to the Director of Collegiate Education, Government of Andhra Pradesh, Nampally, Hyderabad, seeking regularization of services of the petitioner in an aided vacancy available in the first respondent College as was done in the case of others vide (1) G.O.Rt.No.160 Higher Education dated 16.02.2001 (2) G.O.Rt.No.30 Higher Education dated 19.01.2002 and (3) G.O.Rt.No.162 Higher Education dated 02.03.2002. He would submit that in all the above GOs, several persons similarly situated like that of the petitioner were regularized in the aided vacancies by relaxing the procedure prescribed under G.O.Ms.No.12 dated 12.01.1992 whereas the petitioner was discriminated and thereby the respondents have violated Article 14 and 21 of the Constitution of India by continuing the petitioner as adhoc lecturer in the un-aided vacancy.

Sri Ch.Dhanamjaya, learned counsel appearing for the first respondent College, while reiterating the averments of the counter available with him (but the same is either not filed in the Registry and or not available in the Court bundle) would state that the petitioner was appointed only on hourly basis and he worked in other colleges. Hence, his case cannot be considered for regularization in the vacancies available with the first respondent College. Even for regularization of the petitioner as a lecturer in Political Science Department, he has to appear before Selection Committee. If he is selected, his case will be considered for regularization in the aided vacancy as per the work load of the College.

Having considered the rival submissions and in considered view of this Court, the petitioner is working as a lecturer in Political Science Department from 26.08.1993 on adhoc/hourly basis and the similarly situated persons were regularized as lecturers in the aided vacancies by relaxing the prescribed conditions for appointment on regular basis as lecturers in Political Science. As was done in case of other persons vide G.O.Rt.No.16 Higher Education dated 16.02.2001, G.O.Rt.No.30 Higher Education dated 19.01.2002 and G.O.Rt.No.162 Higher Education dated 02.03.2002, the similar benefit of regularization is not extended to the petitioner, which amounts to discrimination and violative of Article 14 of the Constitution of India. Further, continuation of the petitioner on meagre salary of Rs.11,500/- per month while the permanent lecturers are drawing about Rs.1,00,000/- per month, amounts to violative of Article 21 of the Constitution of India. Hence, the respondents are directed to

consider the case of the petitioner for regularization of his services as lecturer in Political Science Department in the first respondent College as he has put in nearly 24 years of service and now aged about 55 years. Atleast now his services can be utilized as lecturer in Political Science Department in the first respondent College. The respondents are directed to complete this exercise within a period of two months from the date of receipt of a copy of this order and pay the monetary benefit to the petitioner as per his eligibility.

Accordingly, the Writ Petition is allowed.

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

12th June, 2018
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(M.GANGA RAO, J)