

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23769 of 2007

ORDER:

This Writ Petition is filed seeking writ of *mandamus* declaring the action of the respondents in not regularizing the services of the petitioner in the post of Economics in the 5th respondent-College w.e.f 01.01.1995, as arbitrary, illegal and discriminatory and violative of Article 14, 15 and 16 of the Constitution of India and a consequential direction to the respondents to appropriately fix the proper dates for admission of the petitioner in Grant-in-Aid post of Lecturer in Economics w.e.f 01.01.1995 in the 5th respondent-college with all consequential benefits.

2. During pendency of this Writ Petition, the petitioner has also filed an amendment petition seeking to amend the prayer to regularize the services of the petitioner w.e.f. 01.01.1985 instead of 01.01.1995 and the same was ordered by this Court vide order, dated 18.12.2017.

3. Heard Sri P.B.Vijaya Kumar, learned counsel for the petitioner, learned Government Pleader for Higher Education appearing for respondents 1 to 5 and Sri P.V.Krishnaiah, learned counsel appearing for the 6th respondent.

4. It has been contended by the petitioner that she was appointed as part-time Lecturer in Economics in the 5th respondent-college on 12.09.1985 and she has worked in aided vacancy right from her initial appointment till 30.04.1991. Again her services were shifted from aided vacancy to un-aided vacancy w.e.f 01.05.1991 to 31.12.1994. Again, thereafter, her services

were utilized by the 5th respondent-college in the aided vacancy w.e.f 01.01.1995 till 01.03.1999. It is further submitted by the petitioner that the petitioner as well as 5th respondent-college submitted proposals to the competent authority to regularize her services for absorption in the aided vacancy and the State Government vide Memo, dated 06.05.1999, had permitted the 2nd respondent to regularize the services of the petitioner in the existing aided vacancy and the 6th respondent services were also directed to be regularized in the aided vacancy caused due to retirement of one Dr V.V.Ranganatham w.e.f 01.03.1999.

5. The grievance of the petitioner is that contrary to the said Memo issued by the State Government, the 2nd respondent had regularized the services of the petitioner in the aided vacancy w.e.f 01.03.1999 in the vacancy caused due to retirement of Dr V.V.Ranganatham on 01.03.1999.

6. The principal contention raised by the learned counsel for the petitioner is that the 2nd respondent had issued regularization proceedings on 02.06.1999 contrary to the Government Memo, dated 06.05.1999 and services of the petitioner ought to have been regularized in the existing vacancy caused due to the retirement of Sri G.Eswara Verma w.e.f. 31.12.1994, but not w.e.f. 01.03.1999.

7. Learned Government Pleader for Higher Education contends that the petitioner is not entitled for regularization with retrospective effect and the 2nd respondent has rightly regularized the services of the petitioner w.e.f 01.03.1999 and there cannot be any retrospective regularization.

8. Learned counsel appearing for the 6th respondent had contended that the petitioner has no locus standi to challenge the regularization orders issued in favour of the 6th respondent; that 6th respondent has been selected pursuant to the advertisement made by the 5th respondent-college and rightly the 2nd respondent has regularized the services of the 6th respondent w.e.f. 29.04.1998; and that there cannot be any grievance to the petitioner in respect of regularization of 6th respondent. He further contended that on earlier occasion also, the writ petitioner has challenged the appointment of the 6th respondent by filing W.P.No.6266 of 1998 and the said writ petition was dismissed as infructuous and the petitioner cannot turn around and once again file the present writ petition, which amounts to *res judicata*.

9. This Court, having considered the rival submissions, is of the considered view that the State Government had issued Memo, dated 06.05.1999, whereunder it was categorically stated that the petitioner services would be regularized in the existing vacancy and the 6th respondent was directed to be regularized in the vacancy caused due to retirement of Dr.V.V.Ranganatham w.e.f 01.03.1999. But, contrary to the said Government Memo, 06.05.1999, the 2nd respondent has regularized the services of the petitioner w.e.f 01.03.1999 in the vacancy caused due to retirement of Dr.V.V.Ranganatham. Therefore, the orders passed by the 2nd respondent regularizing the services of the petitioner in the aided vacancy w.e.f 01.03.1999 by proceedings, dated 02.06.1999 are liable to be set aside

10. Accordingly, the Writ Petition is allowed setting aside the proceedings of the 2nd respondent, dated 02.06.1999, and the 2nd respondent is directed to regularize the services of the petitioner w.e.f 01.03.1999 in the existing vacancy, in compliance with the Government Memo, dated 06.05.1999, with all consequential benefits.

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

ABHINAND KUMAR SHAVILI, J

OCTOBER 23, 2018
YVL



THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No.23769 of 2007

Date:23.10.2018