

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.3716 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the proceedings of the 2nd respondent dated 15.10.2005 and consequently to direct the respondents to approve the appointments of the petitioners from the date of their initial appointments as was done in the cases of other teachers.

Heard Sri B.Rajeswara Rao, learned counsel appearing for the petitioners, learned Government Pleader for Education appearing for respondents 1 to 5 and Sri Y.V.Anil Kumar, learned counsel appearing for respondent No.6.

It is the case of the petitioners that after undergoing regular selection, they were appointed as teachers in the 6th respondent school. After selection, the 6th respondent has submitted the list of selected candidates for approval to the respondent-competent authority on 20.12.96. But the respondents had not approved the appointments of the petitioners whereas the teachers, who were appointed in the elementary school of the 6th respondent, were approved from the date of their initial appointment. Finally, the appointments of the petitioners were approved by the competent authority. However, their appointments were

approved by the competent authority with effect from 8.10.1998 instead from the date of their initial appointment i.e., on 19.11.1996. The petitioners have requested the respondents to consider their cases for approval from the date of their initial appointment i.e., 19.11.1996 on par with the teachers appointed in the elementary schools, but the 2nd respondent had rejected their cases *vide* impugned order dated 15.10.2005. Challenging the same, the present writ petition is filed.

Learned Standing Counsel appearing for the 6th respondent contends that the 6th respondent-Management had submitted the proposals for approval to the competent authority, well within one month for approving the appointments of the petitioners, but the competent authority has not passed any orders and finally approved the appointment of the petitioners *vide* proceedings dated 8.10.98.

Learned counsel appearing for the petitioners contends that as per Rule 12 (8) of G.O.Ms.No.1, dated 1.1.94 the management of private educational institutions should submit the proposals to the competent authority within one month from the date of selection and if no approval is granted within two months from the date of submission of proposals by the competent authority, then the proposals are deemed to have been approved. Since the 6th respondent-management has

submitted the proposals on 20.12.96, the competent authority has not passed any orders on the said proposals and in view of deeming clause in the said Rule, the services of the petitioners are deemed to have been approved and therefore, a direction can be given to the respondents to approve the appointment of the petitioners from the date of their initial appointment.

Learned Government Pleader has relied upon the amended rule i.e., Rule 12 of G.O.Ms.No.1, which has come into force with effect from 30.8.2005, wherein the deeming provision has been deleted.

The said amended Rule has no application in the present case as the issue pertains to the year 1996 when un-amended rule was holding the field. Having considering the rival submissions made by the learned counsel on either side, this Court is of the considered view that cases of the petitioners deserves to be considered for approval in terms of deeming clause in Rule 12 (8) of G.O.Ms.No.1 and the petitioners are entitled for approval of their appointments from the date of their initial appointment on par with the teachers who were appointed in elementary schools in the 6th respondent school.

With the aforesaid observation, the Writ Petition is allowed and the 2nd respondent is directed to approve the

proposals of the petitioners from the date of their initial appointment by duly taking into account Rule 12 (8) of G.O.Ms.No.1, dated 1.1.94 within a period of two months 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

15th June, 2018
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