

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.26031 OF 2003

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ or direction more in the nature of the writ of Mandamus to direct the respondents to treat the appointment of the petitioner as Secondary Grade Teacher in the grant-in-aid post with full salary and allowances from the date of the final orders passed by this Hon'ble High Court dated 14.10.1999 in W.P.No.28211 of 1996 with all consequential benefits of payment of salary and arrears, seniority etc and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Tatineni Pulla Rao, learned counsel appearing for the petitioner, learned Government Pleader appearing for respondent Nos. 2 to 5 and Sri CHBRP Sekhar, learned Standing Counsel appearing for respondent No.1.

It is the case of the petitioner that after conducting regular selection process, the petitioner along with two others were selected and appointed as Secondary Grade Teachers on 24.3.1996. Subsequently, the 1st respondent-School was up-graded as High School. Thereafter, the 1st respondent had submitted proposals to the 2nd respondent for approval of the appointment of the petitioner along with two others. The 2nd respondent *vide* proceedings dated 31.7.1996 rejected the case of the petitioner on the ground that the petitioner was over

aged and approved the case of two other teachers, who were selected and appointed along with the petitioner. Challenging the same, the petitioner filed W.P.No.28211 of 1996 and the same was allowed on 14.10.1999 directing the 2nd respondent to consider the recommendations of the Management with regard to the petitioner's selection as SGBT Teacher pursuant to the Selection Committee meeting held on 24.3.1996 without regarding the petitioner's age as a disqualification for his appointment. In pursuance of the order passed by this Court, the 2nd respondent approved the appointment of the petitioner in an unaided post with effect from 24.3.1996. Thereafter, when a regular vacancy had arisen, the 2nd respondent has absorbed the services of the petitioner in an aided vacancy vide proceedings dated 17.6.2003. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the 2nd respondent ought to have absorbed the services of the petitioner from the date of his selection in pursuance of the order dated 14.10.1999 passed by this Court in W.P.No.28211 of 1996, but the 2nd respondent ought not to have absorbed the services of the petitioner with effect from 3.4.2003.

Learned Government Pleader appearing for the official respondents contends that in pursuance of the order passed by this Court in W.P.No.28211 of 1996 on 14.10.1999, the services of the petitioner were approved in an unaided vacancy and only when an aided regular vacancy had arisen, the case of the petitioner was considered by the respondents and no illegality or irregularity has been committed by the respondents in issuing the impugned proceedings.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the respondents have rightly absorbed the services of the petitioner in aided vacancy only when a regular aided vacancy had arisen in the 1st respondent-School with effect from 3.4.2003 vide proceedings dated 17.6.2003 and the petitioner is not entitled for absorption in aided vacancy from the date of his selection i.e., 24.3.1996. Further, this Court in W.P.No.28211 of 1996 already directed the respondents to absorb the services of the petitioner in aided vacancy and the respondents have complied with the said orders passed by this Court. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th November, 2018
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