

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.36266 OF 2013

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

O.A.No.1815 of 2012 was filed before the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), by nine Secondary Grade Teachers in Karimnagar District, who were appointed on 04.10.2002 under DSC-2001, seeking a declaration that they were entitled to notional seniority from 18.01.2002 on par with the first batch of DSC-2001 candidates. They sought a consequential direction to the authorities to follow the DSC ranking among all the DSC-2001 candidates for the purpose of promotion to the post of School Assistants with all consequential benefits. By order dated 28.02.2013, the Tribunal allowed the O.A. holding that the applicants were entitled to notional seniority as per their ranking in the merit list of DSC-2001 on par with the teachers appointed on 18.01.2002. The authorities were directed to prepare the revised seniority list as per the ranking given to the various teachers in DSC-2001, communicate copies to the concerned teachers, receive their objections and then issue the final seniority list. They were further directed to promote the applicants to the posts of School Assistants as per their eligibility and merit by extending to them notional promotions with monetary benefit from the date of their appointments. Aggrieved by these directions, the erstwhile Government of Andhra Pradesh and its officials in the Education Department filed this writ petition.

Interim suspension of the operation of the order under challenge was granted by this Court on 16.12.2013.

Sri Ch.Jagannatha Rao, learned counsel for the respondents-applicants, would inform this Court that the matter is squarely covered by the decision of the Supreme Court in BALWANT SINGH NARWAL V/ s. STATE OF HARYANA¹.

¹ (2008) 7 SCC 728

Perusal of the order under challenge reflects that the Tribunal also relied upon the said judgment.

It is not in dispute that the appointments of the respondents-applicants were delayed owing to a lapse on the part of the authorities. However, others covered by the same selection were appointed on 18.01.2002.

In BALWANT SINGH NARWAL, the Supreme Court opined that the candidates who were selected against earlier vacancies but could not be appointed along with others of the same batch due to technical difficulties would have to be placed above those who were appointed against subsequent vacancies.

The respondents-applicants stand on a better footing as it was not due to any technical difficulty but owing to a lapse on the part of the authorities themselves that their appointments were delayed by about ten months. It is therefore not open to the authorities to take advantage of their own wrong and refuse the benefit of seniority to the respondents-applicants.

In that view of the matter, this Court finds no irregularity or error in the order passed by the Tribunal.

The writ petition is devoid of merit and is accordingly dismissed. Interim order dated 16.12.2013 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

16th APRIL, 2018

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