

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 21385 of 2003

ORDER:

This writ petition is filed seeking writ of mandamus declaring the impugned proceedings of the 3rd respondent dated 24-09-2003, as arbitrary, illegal and contrary to the proceedings of the Government of A.P. in Memo dated 25.09.2002 and violative of Article 14 and 16 of Constitution of India and for a consequential direction to set aside the same.

Heard Sri P.R.Prasad, learned counsel for the petitioner and the learned Government Pleader for Education.

It has been contended by the petitioner that he was initially appointed as untrained teacher with the 6th respondent school on 28.10.1985. While working as untrained teacher petitioner acquired B.Ed. qualification and subsequently M.Ed qualification. Petitioner further contends that on acquiring requisite qualification, subject to regular selections of B.Ed Assistants, he was selected as B.Ed Assistant by regular constituted Selection Committee on 26.06.2000. Petitioner further contends that he was absorbed as B.Ed Assistant in the aided post w.e.f. 28.03.2001 and was approved by Government vide Memo dated 25.09.2002. The grievance of the petitioner is that even though the competent authority has absorbed the petitioner into aided service, the District Educational Officer/3rd respondent had issued proceedings dated 24.09.2003 to the effect that the 6th respondent has claimed the salary of the petitioner from 28.03.2001 and 28.02.2003 without submitting the proposals to the competent authority for absorption of the petitioner. Hence, the DEO has issued

proceedings for recovery of the amount paid to the petitioner from 28.03.2001 to 31.03.2003 and the remit the said amount to the Government by way of Challan. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submits that at the time of admitting the writ petition, this court was pleased to grant interim stay of the proceedings dated 24.09.2003 vide order dated 01.10.2003 and by virtue of the said interim orders, the amounts have not been recovered and contends that when once the competent authority has approved the appointment of the petitioner w.e.f. 28.03.2001, the petitioner is entitled for payment of salary and therefore, the orders of the DEO is contrary to law and the same is liable to be set aside.

Learned Government Pleader for respondents had contended that since the 6th respondent has been claiming salary of the petitioner without submitting proposals to the competent authority for absorption of the petitioner, the 3rd respondent passed impugned order to recover the amount paid to the petitioner in the form of salary. Therefore, there is no illegality in the order passed by the 3rd respondent and is liable to be dismissed.

This Court, having considered the submissions made by both the parties, is of the considered view that when once the competent authority i.e., Regional Joint Director had approved the appointment of the petitioner on 28.03.2001, petitioner is entitled for payment of salary w.e.f from 28.03.2001 and the orders passed by the DEO is contrary to the same and is liable to be set aside and accordingly, they are set aside with all consequential benefits.

Writ petition is accordingly allowed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

29th November, 2018
dv



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.12475 of 2002
(dismissed)

11th September, 2018

cbs

