

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.24194 & 24363 OF 2003

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being heard and disposed of by this common order.

Challenging the action of the respondents in rejecting the case of the petitioners *vide* proceedings dated 17.10.2003 for absorbing them into grant-in-aid posts, the present writ petitions are filed.

Heard Sri V.V.N. Narasimham, learned counsel appearing for the petitioners and learned Government Pleader for School Education appearing for the respondents.

It is the case of the petitioners that after undergoing regular selection process conducted by the Management of St. Nicholas High School, Vanasthalipuram, they were appointed as Teachers and they were discharging their duties as such since 1998. Thereafter, the said school was admitted into grant-in-aid. When their cases were not considered for absorption in the said aided vacancies, they have filed W.P.Nos.22910 & 23164 of 1996 before this Court. This Court *vide* common order dated 31.3.1999 allowed the said writ

petitions and the operative portion of the said order reads as under:

“Accordingly, the writ petitions are allowed in part. The respondents are directed to absorb the petitioners in the aided posts granted in G.O.Rt.No.354 dated 5.3.1992 with effect from 1.4.1992 till June, 1996 and consequently the petitioners are eligible to receive the salaries in the aided scales during that period. It is made clear that the petitioners are entitled for difference of salary for the period referred to above treating that they are absorbed in the aided posts during that period only and it will not enure any benefit for them to claim future benefits. This exercise shall be done within a period of three months from the date of receipt of a copy of this order. No costs.”

Thereafter, the petitioners have filed W.A.Nos.650 and 663 of 2003 before a Division Bench of this Court. This Court *vide* common order dated 9.6.2003 disposed of the said writ appeals. The operative portion of the said order reads as under:

“Having heard learned counsel for the parties, we are of the view that once the learned single Judge has come to the conclusion that the order impugned in the writ petition was liable to be set aside, the proper course which the learned single Judge ought to have adopted was to send the matter back to the Government to pass appropriate order in the light of the relevant Government orders in vogue on that day and it was for the Government to pass appropriate orders in the facts and circumstances of the case. Needless to add that since the order passed by the learned single Judge setting aside the order of Government in declining to consider the case of the appellants for absorption is not under challenge by the respondents, we dispose of these appeals modifying the impugned order in so far as consequential directions issued by the learned Single Judge are concerned. Instead, it is directed that the 1st respondent will consider the case of the appellants on the premise that

they were appointed prior to issuance of G.O.Ms.No.524, dated 20-12-1988 in the school in question. Appropriate order will be passed by the 1st respondent and conveyed to the appellants within a period of two months from the date of receipt of a copy of this order.”

In pursuance of the orders passed by this Court in the writ petitions and writ appeals, the petitioners were absorbed in grant-in-aid posts *vide* proceedings dated 12.10.1999. However, their request for absorption in aided needy school was negatived *vide* impugned rejection orders dated 17.10.2003. Challenging the same, the present writ petitions are filed.

As per the Rules, when there is a fall in strength or whenever any school is closed, the staff working in the aided post should be absorbed in any other needy school. Since the St. Nicholas High School, where the petitioners are working, has become defunct in June 1996, their cases were not considered for further continuance in any other needy schools.

Learned Government Pleader appearing for the respondents contends that if there is need of any aided vacancy, and any service staff is there, then such staff will be adjusted to needy schools. Since there was no vacancy in other aided schools, the case of the petitioners was not considered.

This Court in the said W.P.Nos.22910 & 23164 of 1996, had specifically directed the respondents to absorb the

petitioners in the aided posts granted in G.O.Rt.No.354, dated 5.3.1992 with effect from 1.4.1992 till June, 1996. Pursuant thereto, the petitioners were absorbed and amounts were paid to them. The request of the petitioners for absorption in other needy schools was negated by the respondents *vide* impugned orders dated 17.10.2003. There is no illegality or irregularity in the order passed by the respondents. Unless and until, grave illegality has been pointed out by the petitioners, this Court is not inclined to interfere with the same. There are no merits in the writ petitions.

Accordingly, both the Writ Petitions are dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

26th September, 2018
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