

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 214 of 2007

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the inaction of the 5th respondent school to issue orders of absorption into aided post with effect from 10.12.1997 as per the proceedings of the 3rd respondent dated 06.06.2006, as illegal and arbitrary. A consequential direction is also sought to absorb the petitioner in aided post of School Assistant (Science) with effect from 10.12.1997 and pay the arrears of salary.

2. Heard learned counsel for the petitioner and learned Government Pleader for School Education appearing on behalf of the respondents 1 to 4.

3. It has been contended by the petitioner that she was appointed as School Assistant in the 5th respondent school on 13.06.1998 in the unaided post and her appointment was also approved by the 4th respondent vide proceedings dated 07.09.1995. While she was working as such, an aided vacancy had arisen, consequent upon the retirement of an incumbent on 30.06.1996. The 5th respondent school appointed her in the aided vacancy vide proceedings dated 10.12.1997 and sent proposals to the 3rd respondent for ratification, but the 3rd respondent had not taken any decision on the proposals sent by the 5th respondent school. Thereafter, the 5th respondent notified the aided post in Eenadu Telugu News Paper on 16.05.2003.

i) In those set of circumstances, she along with others filed W.P.No.11094 of 2003. The said writ petition was disposed of vide orders dated 06.10.2004 with a direction to the 4th respondent therein to send the proposals of the petitioners for their absorption into the vacant aided posts, if not already sent, within three weeks and on submission of such proposals for absorption of the petitioners into existing vacant aided posts, the respondents 1 to 3 therein are directed to consider and pass appropriate orders keeping in view their seniority within three weeks thereafter.

ii) Aggrieved by the orders dated 06.10.2004 in W.P.No.11094 of 2003, the 5th respondent school preferred W.A.No.1903 of 2004 and the said appeal was disposed of vide orders dated 14.12.2004 directing the 5th respondent to send the proposals of the names of the persons including the writ petitioners according to their seniority for absorption into the vacant aided posts keeping in view the guidelines issued in G.O.Ms.No.75 dated 23.09.2000 within four weeks. However, it is made clear that on submission of such proposals, the 9th respondent-Regional Joint Director, Guntur, is directed to consider the proposals after affording an opportunity to both the parties and pass appropriate orders, keeping in view the seniority as well as the guidelines issued in the said G.O., within six weeks thereafter.

iii) When the 5th respondent school had not complied with the orders passed by this Court, the petitioner was constrained to file a Contempt Case No.148 of 2005. Thereafter, the 3rd respondent issued

orders dated 06.06.2006 according permission for absorption of the petitioner from unaided school Assistant (Science), B.G.B.K. Girls High School, Jandrapeta, Prakasam District, into aided vacancy of B.V.B.N. Boys High School, Jandrapet, and authorizing the Correspondent of B.V.B.N. High School to issue orders for absorption as per norms in G.O.Ms.No.100 dated 16.08.2001. In view of the said orders, the contempt case was closed on 27.02.2006.

iv) In spite of the 3rd respondent passing orders on 06.06.2006, the 5th respondent school is not recognizing the petitioner as B.Ed. Assistant and not paying salary in the aided post. Hence, the present writ petition is filed.

4. During pendency of the writ petition, the petitioner had expired and her legal representatives were brought on record.

5. This Court, having considered the submissions made by the parties, is of the considered view that ends of justice would be met, if a direction is given to the 5th respondent to issue orders of absorption in favour of the deceased petitioner in pursuance of the orders passed by the 3rd respondent dated 06.06.2006.

6. Accordingly, the writ petition is disposed of directing the 5th respondent to issue consequential orders of absorption in favour of the deceased petitioner, in pursuance of the orders of the 3rd respondent dated 06.06.2006, within a period of four (4) weeks. The legal representatives of the deceased petitioner are entitled to submit a

representation within two (2) weeks thereafter and upon such representation being received, the respondents shall consider and pass orders in respect of the arrears of salary to be paid to the deceased petitioner, within eight (8) weeks thereafter.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

14th August, 2018
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 214 of 2007
(disposed of)

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