

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 22491 of 2018

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 27.04.2017 in O.A.No. 383 of 2014 passed by the A.P. Administrative Tribunal, Hyderabad whereby, the learned Tribunal, while disposing of the O.A. filed by the respondents, directed the petitioners to pay minimum time scale of pay attached to the posts in which they are holding which was revised in 2015 PRC as may be revised from time to time from the effective date of revision. It is further directed that the respondents shall also be paid arrears of such revision as per the P.R.C., 2015 scales within a period of three months from the date of receipt of a copy of the order.

The present writ petition is filed by the Government on the ground that no regular posts are created in private unaided Industrial Training Centre (I.T.C.) which was taken over by the Director of Employment & Training, Hyderabad, A.P. and the respondents were allowed to work on outsourcing basis only, as such, extending the benefit of regular scales to the respondents does not arise.

The learned Government Pleader for Services (A.P) appearing on behalf of the petitioners submits that by virtue

of G.O.Ms.No. 32, LET&F (Emp.) Dept., dated 30.06.1999, the Government have allowed the regular pay scales to the staff members of Sri T.N.V.S.R.Memorial ITI, Thamballapalli with the concurrence of Finance Department, whereas, the Government in G.O.Ms.No. 92, LET & F Dept., dated 16.09.2010 have accorded permission to the Director of Employment and Training, A.P. Hyderabad to take over the private un-aided ITC, Palasa, Srikakulam District with the concurrence of Finance Department which implies that the Finance Department have agreed to the condition bounded by the management in their document. Accordingly, the services of the employees shall not be regularized as Government employees keeping in view the past experience of this type only i.e. the employees approaching the Court of law and putting the Government in an embarrassing situation, as such, the Government have imposed the condition that the services of the employees shall not be regularized as Government employees while taking over this type of ITCs.

It is pertinent to note that the management of the ITI in which the respondents are working, was taken over by the Government vide G.O.Ms.No. 82 Labour Employment, Training and Factories (EMP) Department dated 16.09.2010. At the time of taking over the ITI, the Institute has got about five and half crores worth of assets. It is also a condition in the

said G.O that the staff which includes the respondents shall not be taken over by the Government and their services shall not be regularized as it is against the policy of the Government.

The fact remains that the Government utilized the services of the respondents on outsourcing basis duly following guidelines issued by the Finance S.M.P.C. Department. However, what are the guidelines for outsourcing are not forthcoming from the petitioners, but the fact remains that the services of the respondents were continued and utilized by the Government in the said Institute. As per the conditions, the respondents are fully qualified to hold the posts and they have enough experience in their posts.

It is pertinent to mention here that as per G.O.Ms. No.32, dated 30.06.1999, similar Institute of Chittoor District was also taken over by the Government and 11 staff members were granted regular scales of pay, but three persons were denied the same as they were not qualified. The petitioners have not stated as to how the present situation of I.T.I is different from one cited by the respondents so as to discriminate the respondents in this O.A. denying the regular scales of pay of P.R.C., 2015.

It is not in dispute that the petitioners extended the benefit of minimum time scale of pay as per P.R.C., 2010. Therefore, what remains is the entitlement of the

respondents for minimum time scale of pay in P.R.C., 2015. It is also not in dispute that the respondents are qualified to hold the posts. The proposals for taking over the Institute were initiated in the year 2008 and the institute was taken over by the Government in September, 2010. As on today, the respondents have put in ten years of service and the Institute is being run by the Government. The respondents are rendering services in their respective positions and the Government is also utilizing their services while imparting Industrial training.

In view of the facts recorded above, we are of the considered opinion that the decision taken by the petitioners in G.O.Ms.No. 82, dated 16.09.2010 that the respondents shall not be regularized is illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India.

Hence, the writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

03.07.2018

SURESH KUMAR KAIT, J

bcj

ABHINAND KUMAR SHAVILI, J