

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24115 of 2015

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the action of respondent No.3 in issuing the proceedings vide Pc.No.204/AMO/SSA/SLKM/2015, dated 22.06.2015 not to re-engage the petitioner as a Cluster Resource Person for 2015-16 of Zilla Parishad High School, Neelampeta of Kotabommali Mandal, Srikakulam District, without following due process of law, as arbitrary, illegal and consequently direct respondent No.3 to re-engage the petitioner.

Heard Sri Krishnarao Modhalavalasa, learned counsel for the petitioner and Sri G.Seena Kumar, learned counsel for respondents.

It has been contended by the petitioner that he was appointed as Cluster Resource Person by respondent No.5 vide proceedings dated 03.11.2012 on contract basis initially for a period of 11 months and subsequently the said tenure was extended. While the petitioner was working as Cluster Resource Person, the 3rd respondent issued the impugned proceedings, dated 22.06.2015, wherein a decision was taken not to re-engage the petitioner as Cluster Resource Person, on account of his bad performance during the academic year 2014-15.

Learned counsel for the petitioner has contended that the petitioner is highly qualified person, having completed M.Sc, B.Ed and also qualified in TET examination, and in view of impugned proceedings, the petitioner could not get any employment in any public or private sector, and that if the respondents are not willing to continue the petitioner, they have to terminate the services of the petitioner by simplicitor without

giving any opinion about the character of the petitioner, which would have effect on the future career of the petitioner. The learned counsel further contended that no opportunity of being heard was given to the petitioner before issuing the impugned proceedings and therefore, the impugned order is liable to be set aside.

The learned counsel for the respondents has contended that the services of the petitioner were not continued only on account of his bad performance, and that the main object of engaging the petitioner is to ensure that the students should be encouraged to come to the school and also to ensure that there are no dropouts, but the petitioner has miserably failed to perform his duties and there were many dropouts and after examining the entire record and performance of the petitioner, the impugned orders were passed.

Having considered the rival submissions of the parties, this court is of the view that since it is a tenure appointment for a period of 11 months at the end of every 11 months, the tenure is liable to be extended. If the respondents are not inclined to re-engage the petitioner, they should have passed an order of simple termination. Whenever stigma is cast upon the petitioner, in all fairness, the respondents have to give an opportunity to the petitioner before coming to a conclusion that the performance of the petitioner is bad. In the instant case, no such exercise was done, therefore, the impugned orders dated 22.06.2015 are liable to be set aside.

For the foregoing reasons, the writ petition is allowed. The Impugned order, dated 22.06.2015, issued by respondent No.3 is set aside. However, the petitioner is at liberty to make a representation to

the respondents for re-engaging his services as Cluster Resource Person, within a period of 2 (two) weeks from the date of receipt of a copy of this order, and upon such representation being received from the petitioner, the respondents are directed to consider the same and pass appropriate orders thereon, in accordance with law, and communicate the same to the petitioner, within a period of 8 (eight) weeks therefrom. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 19.04.2018
Dsr

ABHINAND KUMAR SHAVILI, J

