

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5760 OF 2005

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 24.2.2005 of the 3rd respondent and the consequential order of the 5th respondent dated 1.3.2005 as illegal, arbitrary, and further directing respondents Nos.1 to 5 to absorb the petitioner in the grant-in-aid post of Attender.

2. The learned Counsel for the petitioner submits that the petitioner was appointed as contingent employee in the 5th respondent school on 24.7.1975 and later, he was promoted as attender from 1st November, 1977 vide proceedings dated 6.12.1977, and thereafter, the 5th respondent-school was admitted into grant-in-aid vide G.O.Ms.No.1214, dated 29.12.1978 with effect from 1.7.1978. She further submits that at the time of admitting the 5th respondent-school into grant-in-aid, the persons, who were appointed prior to appointment of the petitioner, were absorbed in grant-in-aid posts and that the 5th respondent-school vide resolution dated 24.6.1986 resolved that the unaided employees appointed prior to the

admission into grant-in-aid shall be absorbed in grant-in-aid as and when grant in aid vacancies arose. Further, she submits that the 5th respondent passed a resolution on 4.10.1999 admitting the petitioner into grant-in-aid post and that the 5th respondent sent proposals for approval of appointment of the petitioner into grant-in-aid to the District Educational Officer, who in turn submitted proposals to the Regional Joint Director of School Education, Kakinada on 11.9.2000 and then, the Regional Joint Director of School Education recommended the case of the petitioner to the Commissioner vide proceedings dated 27.10.2000. Further, she submits that it is the grievance of the petitioner that though the Regional Joint Director of School Education has recommended the case of the petitioner for absorption into grant-in-aid post, the Commissioner of School Education has not passed any orders, and therefore, challenging the action of the Commissioner in not approving the appointment of the petitioner in grant-in-aid post, the present writ petition is filed.

3. Further, the learned Counsel for the petitioner further submits that during the pendency of this writ petition, the petitioner attained the age of superannuation, and until and

unless the competent authority approves the appointment of the petitioner into grant-in-aid vacancy, the petitioner would not get any terminal benefits and therefore, appropriate orders may be passed directing the official respondents more particularly the Commissioner of School Education to pass appropriate orders on the proposals submitted by the Regional Joint Director of School Education way back in the year 2000.

4. The learned Government Pleader for the official respondents submits that the petitioner was absorbed into grant-in-aid post without obtaining prior permission of the competent authority and therefore, the question of considering the case of the petitioner for absorption would not arise and the writ petition is liable to be dismissed.

5. This Court having considered the rival submissions made by the parties, is of the view that this writ petition can be disposed of directing the petitioner to submit a fresh representation to the official respondents.

6. Accordingly, the Writ Petition is disposed of directing the petitioner to submit a fresh representation to the official respondents, within a period of two weeks from the date of

receipt of a copy of this order. On such representation being received, the Commissioner of School Education will consider the same and pass appropriate orders by duly taking into account the recommendations made by the Regional Joint Director of School Education, Kakinada, way back on 27.10.2000, within a period of four weeks thereafter. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated:20.12.2018.
Nn.



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5760 OF 2005



20.12.2018

Nn.