

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.8399 & 8403 OF 2010

DATED : 27.02.2018

W.P.No.8399 of 2010

Between :

Smt A.Vijaya Gowri, W/o.Karnam Peddi Raju,
42 yrs, Service, R/o.Z.P.High School Road,
Bhimadole, West Godavari District,
Working as Librarian & others.

.. Petitioners

And

The Commissioner of Endowments,
Government of Andhra Pradesh, Tilak Road,
Abids, Hyderabad & another

.. Respondents

W.P.No.8403 of 2010

Between :

P.Srinivas Rao, S/o.P.B.Rajeswara Rao,
42 yrs, Service, R/o.Komavarapukota,
West Godavari District,
Working as Librarian & another

.. Petitioners

And

The Commissioner of Endowments,
Government of Andhra Pradesh, Tilak Road,
Abids, Hyderabad & another

.. Respondents

This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.8399 & 8403 OF 2010

COMMON ORDER:

Heard learned counsel for the petitioners and learned Standing counsel for 2nd respondent. With consent of both counsel, the writ petitions are disposed of finally.

2. Petitioners are claiming to be working in Junior Colleges run by Sri Venkateswara Swamy Devasthanam, Dwaraka Tirumala, West Godavari District.

3. The service particulars of the petitioners in W.P.No.8399 of 2010 are as under:

The first petitioner was appointed as librarian on 01.10.2001 on consolidated pay of Rs.5000/-, second petitioner was appointed as Junior lecturer in Mathematics on 01.11.2001 on a consolidated pay of Rs.9,500/-, third petitioner was appointed as Junior lecturer in Chemistry on 11.08.2002 on a consolidated pay of Rs.8500/-, Fourth petitioner was appointed as junior lecturer in Botany on 16.08.2004 on consolidated pay of Rs.8500/-, fifth petitioner was appointed as Junior lecturer in Zoology on 02.10.2004 on consolidated pay of Rs.8500/- and the sixth petitioner was appointed as Lab Assistant on 15.06.2004 on consolidated pay of Rs.5000/-, in the 2nd respondent College.

4. The service particulars of petitioners in W.P.No.8403 of 2010 are as under:

The first petitioner was appointed as librarian on 27.03.2001 on consolidated pay of Rs.5000/- and second petitioner was appointed as Junior lecturer in Chemistry on 09.07.2003 on

consolidated pay of Rs.8500/- per month, in the 2nd respondent College.

5. Petitioners are aggrieved against continuing them on consolidated pay basis, not regularizing their services in the post held by them and seeks direction to respondents to forthwith regularize their services.

6. According to learned counsel for the petitioners, petitioners are fully qualified and eligible to be appointed on regular basis. These two colleges are managed by Sri Venkateswara Swamy Devasthanam, Dwaraka Tirumala. Therefore, they do not come under government service and the scheme of regularization and Act 2 of 1994 is not applicable. That being so, when petitioners are eligible and when their services are required to run the institution, not regularizing their services and continuing them on consolidated basis is arbitrary, discriminatory and unconstitutional. He would submit that though ban was imposed by government in the year 2005, as per subsequent clarification issued by the government in Memo No.35808/Endts.I(2)/07-3 dated 31.07.2007, the ban has no impact to institution similar to respondent and services can be regularized. By referring to the proceedings of Commissioner dated 28.03.2014 he would submit that as and when the court gave directions, the Commissioner authorized the competent authority to regularize the services. He would further submit that employees in whose favour the said proceedings were issued are also employees of Dwaraka Tirumala Devasthanam and petitioners herein are similarly situated. He further submits that this Court disposed of W.P.No.6697 of 2010

on 31.10.2017 directing consideration for regularisation and prays to grant similar relief in these writ petitions also.

7. Learned Assistant Government Pleaders, by referring to averments in the counter affidavit filed on behalf of 2nd respondent, submits that the appointments of petitioners are made purely on contract basis, without any right or claim in the service conditions and therefore, they are not entitled to claim regularization. He further submits that Section 57 of Act 1987 imposes ceiling on expenditure to be incurred by any temple and maximum ceiling imposed is 30% of the income generated by the temple and if the services of petitioners are regularized, the ceiling limit may have to be breached and the same is not permissible. Therefore, the services of the petitioners cannot be regularized. He would submit, in G.O.Rt.No.1997 dated 18.10.2005, Government has imposed ban on recruitment of administrative staff in Hindu Religious Institutions and said ban is still in operation. Therefore, the question of regularization of services of petitioners does not arise.

8. In response to the contention of ceiling limit, learned counsel for the petitioners would submit that as averred in the reply affidavit, the income of Dwaraka Tirumala has increased substantially and it is within the permissible limits to bear the expenditure towards payment of salary and allowances of teaching faculty working in the respondent-College.

9. Learned Assistant Government Pleader further submits that in view of the orders in G.O.Ms.No.12 dated 10.01.1992, petitioners are not entitled for regularization. This very issue was raised in W.P.No.6697 of 2010. Having considered the scope of

G.O.Ms.No.12, the Court held that the scheme formulated in G.O.Ms.No.12 is not restricted to any period but general directions were issued and over ruled the objection. In view of the said decision, the contention of learned Government pleader is liable to be rejected.

10. It is not in dispute that the colleges in which petitioners are working are established by Sri Venkateswara Swamy Devasthanam, Dwaraka Tirumala and they are not aided by the Government and fully supported by the Devasthanam. To run these colleges, Devasthanam requires services of teaching faculty. It is not in dispute that petitioners have been working from the respective dates of their appointments mentioned above and many of them have completed 16 years of service and all of them have completed more than 13 years of service by now.

11. Though detailed counter affidavit is filed by the temple, there is no allegation of poor performance of the petitioners disentitling them to seek regularization of their service. Further though the temple averred that there is ceiling limit on incurring expenditure for administrative purposes, it is not stated as to whether by granting higher pay and allowances to the petitioners, ceiling limit of 30% would be breached violating the mandate of Section 57 of the Act, 1987.

12. Be that as it may, so long as the Devasthanam is maintaining educational institutions, it requires teaching faculty and without the teaching faculty the institutions cannot run. Though services of petitioners are required, instead of granting them regular service benefits, continuing them on consolidated

pay, *per se*, would amount to illegal exploitation of labour and such practice cannot be countenanced.

13. The further contention of the respondents that there is ban imposed and therefore, regularization is not permissible is also stated to be rejected. A bare perusal of the government orders would show that government prohibited further recruitment of administrative staff. Thus, it appears no ban was imposed on recruitment to teaching faculty. Further as pointed out by learned counsel for the petitioners, Government clarified in its memo dated 31.07.2007, since temples are funded by donations and Charities and government does not give any salaries to these institutions, Act 2 of 1994 and subsequent amendment has no application to the staff of the temple. Observing so, government issued directions for appointment of persons mentioned therein on regular basis. Further, concerning very same temple, Commissioner authorised the Executive Officer of the temple to regularize the services of persons mentioned in its proceedings dated 28.03.2014. These directions were issued pursuant to the order of this Court. Thus, it is no more open for the respondents to contend that there is ban on recruitment and therefore, the services cannot be regularized.

14. Having regard to the above, I am of the considered opinion that petitioners are entitled to be appointed on regular basis. The Commissioner is directed to examine the claim of petitioners for regularization of their service having regard to the long service rendered by them and if petitioners are found to be otherwise eligible, the Commissioner shall issue appropriate directions to the Executive Officer of the respondent-Devasthanam to regularize

their services and to grant all consequential benefits. The entire exercise shall be completed within a period of two (2) months from the date of receipt of copy of this order.

15. Writ Petitions are accordingly, disposed of. There shall be no order as to costs. Pending Miscellaneous petitions stand closed.

P.NAVEEN RAO,J

27th February 2018
Rds

