

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 19380 OF 2010

ORDER :

This Writ Petition is filed seeking to issue a Writ of Mandamus, declaring the impugned Proceedings Rc.No.722/Admn.VI-2/2007, dated 5.5.2008 issued by the 2nd respondent as illegal, arbitrary, improper and contrary to law, and also declare that the posts of the petitioners as Lecturers in Economics and Telugu (aided) are deemed to be approved in view of Rule 12(8) of G.O.Ms.No.1, dated 1.1.1993.

2. During the pendency of the Writ Petition, the petitioners have filed an application for amendment of prayer and the same was allowed vide orders dated 8.11.2018 and the amended prayer is to the following effect:

“to declare the Memo No.9543/CE.II-1/2012-2, dated 15.12.2012 passed by the 1st respondent and Proceedings Rc.No.308/Admn.II.1/2012, dated 20.12.2012 issued by the 2nd respondent, as illegal, arbitrary and discriminatory and violative of Article 14 of the Constitution of India.”

3. Heard Mr.N.Bharat Babu, Counsel for the petitioners and Government Pleader for Higher Education.

4. It has been contended by the petitioners that they are fully eligible and qualified to be appointed as Lecturers and while they were looking out for suitable employment, the respondent nos. 2 and 3 have issued a notification dated 10.08.2001 for filling up the posts of Lecturers in Economics and Telugu, after obtaining necessary permission from the competent authority to fill up the posts. They have responded to the said notification and after undergoing regular process, they were selected and appointed as Lecturers in Economics and Lecturers in Telugu, vide proceedings dated 26.11.2001 and 15.4.2002 respectively. It is further submitted by the petitioners that the

respondent nos. 3 and 4 have submitted proposals to the competent authority on 16.1.2002 and 30.5.2002 respectively seeking approval of the appointment of the petitioners. But the respondents 1 and 2 have rejected the case of the petitioners vide proceedings dated 5.5.2008 on the ground that there was a ban imposed by the State Government vide G.O.Ms.No.35, dated 27.3.2006 and in view of the same, the question of considering the cases for approving the appointment of the petitioners is not feasible. Challenging the said rejection orders dated 5.5.2008, the present Writ Petition is filed.

5. It is submitted by the Counsel for the Petitioners that during the pendency of the Writ Petition, the respondents have once again considered and rejected the cases of the petitioners, vide orders dated 15.12.2012. Challenging the same, appropriate amendment application has been filed and the same has been ordered.

6. The Counsel for the petitioners contends that the issue raised in the Writ Petition is squarely covered by the judgment rendered in W.P.No.20036/2003, dated 30.10.2003 wherein this Hon'ble Court was pleased to direct the respondents to absorb the petitioner therein in the aided vacancy in Botany, without reference to the ban orders imposed by the respondents. The respondents herein have carried the matter in Appeal by filing W.A. No.1462/2017 and the Hon'ble Division Bench was pleased to reject the Writ Appeal, by orders dated 10.10.2017 and thereafter, the respondents further carried the matter before the Hon'ble Supreme Court in SLP No.34262/2017 and the Hon'ble Supreme Court was pleased to dismiss the said SLP by orders dated 9.1.2018.

7. The Counsel contends that the petitioner in W.P.No.20036/2003 is also Lecturer under the respondent nos. 3 and 4 and the petitioners herein are

also similarly situated persons. The Counsel for the petitioners further contends that the orders passed in W.P.No.20036/2003 dated 30.10.2013, have been complied with by the respondents by issuing G.O.Ms.No.3, dated 10.1.2018, absorbing the petitioner therein into aided service from the date of her initial appointment and contends that similar direction be issued to the respondents to absorb the petitioners herein into aided service from the date of arising of aided vacancy.

8. The Government Pleader appearing for the respondents contended that the State Government had imposed ban orders vide G.O.Ms.No.35, dated 27.3.2006 and the question of considering the cases of the petitioners for absorbing into aided service would not arise. The petitioners are not entitled for absorbing into aided service. There are no merits in the Writ Petition and the same may be liable to be dismissed.

9. This Court having considered the rival submissions of the parties is of the considered view that the petitioners herein are also similarly situated as the petitioner in W.P.No.20036/2003 and the respondents have complied with the orders passed in favour of the petitioner in W.P.No.20036/2003 by way of issuing G.O.Ms.No.3, dated 10.1.2018. This Court did not find any reason to deviate from the said view taken by this Hon'ble Court. Therefore, this Writ Petition is allowed and the Petitioners shall be absorbed in the aided vacancies from the date of arising of vacancies under the respondent nos. 3 and 4 with all consequential benefits.

10. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

20th November, 2018

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