

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10659 OF 2002

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the proceedings dated 07-03-2001 in not continuing the petitioner as Attender as arbitrary and illegal and consequently to direct the respondents to continue the petitioner as Attender by ratifying the appointment of the petitioner and pay all consequential benefits by setting aside the proceedings dated 07-03-2001.

Heard Sri K.Lakshmana Chary, learned counsel appearing for the petitioner, Sri S.Sri Ram Reddy, learned Standing Counsel appearing for respondents 1 and 2 and learned Government Pleader for School Education appearing for respondents 3 and 4 .

It is the case of the petitioner that initially, he was appointed as Sweeper on 25-09-1983, on compassionate grounds, in the school run by respondents 1 and 2. Thereafter, when an aided vacancy of Attender arose, respondents 1 and 2 had obtained permission from the competent authority to fill up the said post and the competent authority has accorded permission. Accordingly, respondents 1 and 2 issued notification on 10-06-1997 for filling up the said

post. The respondents 1 and 2 have appointed the petitioner on 09-12-2000 by way of conversion from the post of Sweeper and submitted proposals to the competent authority on 20.12.2000. The 3rd respondent had rejected the said proposals *vide* proceedings dated 7-3-2001 on the ground that there is no sanctioned grant-in-aid post. Challenging the same, the present writ petition is filed.

Learned Government Pleader contends that the competent authority has given permission to fill up the post of Attender by way of recruitment and accordingly, respondents 1 and 2 have issued notification on 10-06-1997 to fill up the said post. When the respondents 1 and 2 have issued recruitment notification on 10-06-1997 for filling up the said post, they ought not to have appointed the petitioner as Attender, who was appointed as Sweeper on compassionate grounds and the competent authority has rightly rejected the proposals submitted by respondents 1 and 2.

Learned counsel appearing for respondents 1 and 2 contends that in pursuance of the notification issued on 10-06-1997, they have appointed the petitioner by way of conversion from the post of Sweeper to Attender and no illegality has been committed by respondents 1 and 2.

Learned counsel appearing for the petitioner submits that as of now, the petitioner is continuing as Sweeper.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that when the petitioner was appointed as Sweeper on compassionate grounds, respondents 1 and 2 ought not to have appointed him as Attender by way of conversion. Therefore, the 3rd respondent-District Educational Officer has rightly rejected the proposal submitted by respondents 1 and 2 *vide* proceedings dated 7.3.2001. There are no merits in this writ petition.

Accordingly, the Writ Petition is dismissed. However, the respondents 1 and 2 are directed to pay the salary pertaining to the post of Sweeper to the petitioner. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

20th August, 2018-
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