

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 42850 of 2017

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed assailing the order dated 28.06.2012 in O.A.No. 10469 of 2009 passed by the A.P. Administrative Tribunal, Hyderabad.

It is averred in the writ affidavit that the respondent was initially appointed as Language Pandit in Hindi in School Education Department, and subsequently, promoted as School Assistant. The posts of Junior Lecturer in the Department of Intermediate Education are governed by the Special Rules issued in G.O.Ms.No. 302, dated 30.12.1993. Category 8 of Rule 3 specifies method of recruitment to the posts of Junior Lecturer. As per the provision for recruitment by transfer from the cadre of School Assistants under 40% quota, the Regional Joint Director of School Education, Warangal furnished settled seniority list of School Assistants for consideration of their candidature for promotion to the posts of Junior Lecturer. As per the seniority list, the name of the respondent is figured at S.No. 24 and later revised to S.No.19. The Regional Joint Director of Intermediate Education convened Departmental Promotion Committee for filling up vacant posts of Junior Lecturer by recruitment by

transfer from the cadre of School Assistants under 40% quota during November, 1998. The Committee approved the names of the School Assistants figured in the final seniority list furnished by the Regional Joint Director of School Education up to the name of Sri Tahseen Ali who stood at S.No.21. The Regional Joint Director of Intermediate Education, who is the appointing authority for the posts of Junior Lecturer, issued orders in proceedings Rc.No.2598/ C1/ 1998, dated 20.12.1999 and promoted the respondent, Hindi Pandit Grade-I, Z.P.G.S. Ramadugu, Karimnagar District as Junior Lecturer in Hindi and posted at Government Junior College, Vemulavada, Karimnagar District. Meanwhile, Sri R. Jaggaiah, School Assistant, filed O.A.No. 7745 of 1999 before the Tribunal challenging the combined seniority list prepared by the Chief Executive Officer, Zilla Parishad, Karimnagar and consequential promotion orders issued by the Regional Joint Director of Intermediate Education, Warangal in Proceedings Rc.No.2598/ C1/ 1998, dated 20.12.1999. The Tribunal, by order dated 27.12.1999 in O.A.No. 7745 of 1999, granted interim stay of the orders issued by the Regional Joint Director of Intermediate Education in Proceedings Rc.No.2598/ C1/ 1998, dated 20.12.1999 whereby the respondent was promoted as Junior Lecturer in Hindi. In the light of the interim stay granted by the Tribunal, the Regional

Joint Director of Intermediate Education, vide proceedings Rc.No.2508/ C1/ 1998, dated 03.01.2000, gave a telegram on 03.01.2000 to the Head Master, Z.P.S.S., Ramadugu, Karimnagar District not to relieve the respondent until further orders. Meanwhile, certain other School Assistants, who were promoted as Junior Lecturers along with the respondent, have already been relieved and joined as Junior Lecturers even before interim stay was granted by the Tribunal. Being aggrieved, the respondent filed V.M.A.No. 74 of 2001 in O.A.No.7745 of 1999 seeking to vacate the interim stay. The applicant, who filed O.A.No. 7745 of 1999, took voluntary retirement on 30.12.2000, and the members, who were promoted along with the respondent, already joined as Junior Lecturers, however the respondent, who could not get relieved in time, could not join in the promotion post as the interim stay is coming in his way. The Tribunal, by order dated 02.07.2001, vacated the interim stay granted in O.A.No. 7745 of 1999 enabling the respondent to join as Junior Lecturer. The Tribunal, by order dated 16.09.2004 in O.A.No. 7745 of 1999, observed to the effect that *“the applicant in the case is seeking promotion on par or earlier to the promotion of party respondents 05 to 08. He further submits that however, the applicant has retired from service, and therefore, no further orders are necessary. In view of the*

above submission, the O.A. is closed with an observation that no further orders are necessary”.

Accordingly, the Regional Joint Director of Intermediate Education, in Proceedings Rc.No.2508/ C1/ 1998, dated 17.09.2001, issued order to the Head Master, Z.P.S.S. Ramadugu, Karimnagar District to relieve the respondent and direct him to join duty at Government Junior College, Kodimial, Karimnagar District instead of Government Junior College, Vemulavada, Karimnagar District. The respondent joined as junior Lecturer in Hindi on 19.09.2001. The final subject-wise seniority list of Junior Lecturers working in Government Junior Colleges in Zone-V has been communicated by the Regional Joint Director of Intermediate Education, Warangal in Proceedings Rc.No.523/ C1/ 2006, dated 05.01.2007. The Government issued instructions on review/ revision of seniority in Circular Memo No.57759/ Ser.A/ 2004-I, dated 20.05.2004 in the context of the judicial pronouncement, the Supreme Court of India ruling on seniority in service matter, published in the Hindu dated 11.07.1998 and reported in [1998] 2 SCC 523 that *“in dealing with the cases for fixing the seniority the procedure and the rules prescribed in Andhra Pradesh State and Subordinate Service Rules or in Special Rules governing the post shall be followed.”* Then the respondent made a representation dated

20.02.2009 requesting for his seniority with effect 20.12.1999 on par with his juniors instead of 19.09.2001 which is his actual date of joining as Junior Lecturer in Hindi. The 2nd petitioner – Director of Intermediate Education, after examining his request, rejected the same vide proceedings Rc.No.Ser.II-A-I/ 276/ 2009, dated 25.06.2009. Subsequently, the respondent retired from service on 31.12.2007 on attaining the age of superannuation. Being aggrieved by the order of the 2nd petitioner, the respondent filed O.A.No. 10469 of 2009 and the Tribunal, vide impugned order dated 28.06.2012, allowed the O.A. declaring that the respondent is entitled to be promoted with effect from 20.12.1999 and for grant of consequential benefits arising thereof. Challenging the order of the Tribunal, the petitioners – Government filed the present writ petition.

The learned Government Pleader for Services (T.S) appearing on behalf of the petitioners contends that the Tribunal has ignored all the procedure and considered direction given by the Supreme Court and allowed the O.A. filed by the respondent.

It is an admitted fact that the respondent was promoted along with several other School Assistants as Junior Lecturer vide Proceedings dated 20.12.1999. The Proceedings were the subject matter of challenge in O.A.No. 7745 of 1999. The

Tribunal granted stay of operation of the proceedings insofar as the applicant alone is concerned, in pursuance of which, the petitioners had to keep the orders of promotion in abeyance. The interim order was vacated on 02.07.2001 and the O.A. was closed on 16.09.2004. After closure of the O.A., the respondent made a representation seeking restoration of his seniority on par with his juniors. The petitioners have not considered his claim on the ground that the Government issued Circular Memo dated 20.05.2004. Based on the above fact, the Tribunal recorded in the impugned order that Circular cannot be put into play for the simple reason that the O.A. was finally disposed of by the Tribunal in 2004. The respondent made a representation which is referred to by the Regional Joint Director of Intermediate Education in his letter Rc.No.1805/ 4389/ C1/ 06, dated 05.01.2007. Reference No.4 does refer to the representation dated 17.08.2006 of the applicant. The respondent has made a representation seeking restoration of his seniority subsequent to the final disposal of the O.A., and the petitioners, while relying on the Circular Memo dated 20.05.2004 issued by the Government, rejected the claim of the respondent. Thereafter, the Tribunal upheld the orders of promotion and the respondent had functioned and retired as Junior Assistant.

In view of the facts recorded above, the respondent is entitled to notional seniority on par with his juniors. Accordingly, the Tribunal has set aside the Proceedings Rc.No.Ser.II.A-1/ 276/ 2009, dated 25.06.2009 issued by the 2nd petitioner and declared that the respondent is entitled to be promoted with effect from 20.12.1999 as per Proceedings Rc.No.2598/ C1/ 98, dated 20.12.1999 issued by the 3rd petitioner and also entitled to consequential benefits arising thereof.

We find no perversity or illegality in the order dated 28.06.2012 in O.A.No. 10469 of 2009 passed by the Tribunal.

Hence, the writ petition is devoid of merit and the same is accordingly dismissed at the admission stage. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

06.02.2018

ABHINAND KUMAR SHAVILI, J

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