

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.927 of 2019

Date: 20.12.2019

Between:

Rajasri Busi Reddy

...Appellant

And

The State of Telangana,
Rep. by its Principal Secretary,
Higher Education (IE.II) Department,
T.S. Secretariat, Hyderabad.
and others

...Respondents

Counsel for the appellant : Mr. M.Panduranga Rao

Counsel for respondents Nos.1 & 2 : GP for Higher Education

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present writ appeal is filed assailing the order, dated 18.11.2019, passed by a learned Single Judge dismissing Writ Petition No.38435 of 2014 filed by the appellant herein.

2. The brief facts of the case are that initially the appellant was appointed as part-time lecturer on 13.11.1990 by the respondents. While discharging her duties, the State Government had extended the grant-in-aid to the 3rd respondent-College vide G.O.Ms.No.96 Education (CE.II) Department, dated 14.03.1991 w.e.f.16.01.1990. While the appellant was working as the part-time lecturer in mathematics, she was subjected to regular selection process in the year 1995; she was appointed as Junior Lecturer on 03.07.1995. The appellant has filed the writ petition contending that she was holding the post of Junior Lecturer, and was discharging the duties on par with that of regular lecturer. Hence, it is imperative on the part of the respondents to approve her appointment w.e.f.13.11.1990 i.e., the date of her initial appointment instead of 03.07.1995. It was further submitted that the services of some other lecturers, who were appointed initially along with her, were regularized from the date of their initial appointment even though the post was admitted to grant-in-aid subsequently. Thus, the same benefit should also be extended to the appellant herein. The learned Single Judge, after going through the pleadings and record, has dismissed the writ petition, *inter alia* on the ground that the appellant cannot claim that she has to be admitted to the grant-in-aid post from the date of her initial appointment on par with similarly situated persons, as a matter of right.

3. Mr. M. Panduranga Rao, the learned Counsel appearing on behalf of the appellant, has vehemently argued that the benefit which is given to the similarly situated persons has to be given to the appellant as well.

Since the appellant was discharging her duties as a full-time lecturer without any complaint from any quarter, even though she was appointed as part-time lecturer. The learned Counsel has relied on the earlier unreported judgments of this Court in W.P.No.19277 of 1999, dated 13.09.2000, W.A.No.1429 of 2000 (Division Bench), dated 14.02.2005, and W.P.No.8015 of 2004, dated 28.03.2014 to buttress his case that the appellant is also entitled for the same relief.

4. Per contra, the learned Government Pleader for Higher Education has vehemently contended that the appellant cannot have a vested right to claim that her services be regularized from the date of her initial appointment as the post was not admitted to grant-in-aid and at the time of her initial appointment. Moreover, she was not selected through a regular selection process but was only working as a part time lecturer. Thus, in these circumstances, the earlier orders cannot be made the basis for regularizing her services from the date of her initial appointment.

5. Heard Sri M.Panduranga Rao, the learned Counsel appearing for the appellant, and the Government Pleader for Higher Education for the respondents Nos.1 and 2.

6. Admittedly, in this case, even though the appellant was appointed as part-time lecturer on 13.11.1990, she was appointed as a regular Junior Lecturer on 03.07.1995, after she was subjected to a regular selection process. After the permission sought by the College to fill up the aided post was made, the permission was granted by the Director, District Intermediate Education. The College had issued a notification calling applications from eligible persons to be appointed as Junior Lecturers. The appellant had also applied for the said post; she was selected to the post of Junior Lecturer, and was appointed as such on 03.07.1995. The

appellant, who was working as part-time lecturer from 13.11.1990, cannot claim the benefit of getting her services regularized with effect from the date on which the post was admitted to grant-in-aid or the date of her initial appointment as part-time lecturer. A perusal of the appointment order, dated 13.11.1990, clearly shows that the appellant was appointed as part-time lecturer on a consolidated pay. There is nothing on record to show that her initial appointment was made after duly following the selection process i.e., issuance of notification calling for applications, and an interview conducted by the duly constituted selection committee, etc. Merely because the post is admitted to grant-in-aid, from a particular date, the appellant cannot, as a matter of right, seek regularization of her services from that date onwards. The earlier judgments relied upon by the appellant do not lay down the correct proposition of law and those decisions granted in favour of any particular party does not entitle any other party to claim the same benefits on the basis of the wrong decision. It is well established principle of law that equality cannot be claimed in illegality. Even in cases where similarly situated persons have been granted some benefit, inadvertently or by mistake, such order does not confer any legal right on the appellant to get same relief. Further, the principle of equality is a positive one, and not a negative one.

7. In **FUJIT KAUR v. STATE OF PUNJAB**¹, the Hon'ble Supreme Court at para 11 held as under:

.... in view of the settled legal proposition that Article 14 of the Constitution of India does not envisage negative equality. Article 14 is not meant to perpetuate illegality or fraud. Article 14 of the Constitution has a positive concept. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or Court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot

¹ (2010) 11 SCC 455

invoke the jurisdiction of the higher or superior Court for repeating or multiplying the same irregularity or illegality or for passing a wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim the benefits on the basis of the wrong decision. Even otherwise Article 14 cannot be stretched too far otherwise it would make function of the administration impossible.

8. For the above mentioned reasons and in view of the ratio laid down by the Hon'ble Supreme Court in ***Fujit Kaur (supra)***, we see no reason to interfere in the order passed by the learned single Judge; the writ appeal is accordingly dismissed.

The miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

20th December, 2019
smr / sur

