

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

W.A.Nos.555 of 2020 and 275 of 2021

COMMON JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Regard being had to the controversy involved in the aforesaid cases, they were heard together and are being decided by a common order.

The facts of W.A.No.555 of 2020 are reproduced as under:-

The present writ appeal is arising out of the order dated 08.11.2019, passed by the learned Single Judge in W.P.No.984 of 2019, by which the learned Single Judge has directed the present appellants to forward a proposal for regularising the services of respondent Nos.1 to 4/employees to the State Government and the State Government has been directed to consider their cases for regularisation. The other important aspect of the case is that the termination orders of respondent Nos.1 to 4/employees have also been set aside.

The undisputed facts of the case reveal that appellant No.1, Dairatul-Ma'Arif-il-Osmania, was established in the year 1888 AD by the erstwhile ruler of Hyderabad and since then the Institution is in existence. It was earlier receiving grant-in-aid from the Hyderabad State and now from the State of Telangana. G.O.Ms.No.39 dated 24.01.1994 was issued by the State Government transferring the Institution from the administrative control of the Education Department to the Minorities Welfare Department and thereafter, an Advertisement was issued inviting applications for five posts of Sub-Editors. Respondent Nos.1 to

4/employees were appointed as Sub-Editors, through process of selection, on 28.04.2001 and they were continued by the present appellants without any break. The appellants, later on, directed respondent Nos.1 to 4/employees to execute a contract and a contract was executed on 25.11.2008 appointing respondent Nos.1 to 4/employees for a period of five years.

Respondent Nos.1 to 4/employees, as they were apprehending threat of discontinuance, came before this court by filing W.P.No.32903 of 2010 and this court granted an interim order directing the parties to maintain *status quo*. While the writ petition was pending before this court, the cases of the employees were recommended to the State Government by the Director of the Institution for regularisation. A copy of one such recommendation in respect of Syed Rayeesuddin, respondent No.1 in the present writ appeal, is reproduced as under:-

“Check List to Furnish proposals for regularization of services of
Persons appointed on Contract basis
(See Finance Department circular Memo No.308-A/51/A3/HRM-I/2014-dt.26-02-2016)

Department : **Research & Editing, Dairatul Maarif Osmania**
Head of the Department : **Prof. Dr. Mehjabeen Akther**

1	Name of the Individual	Syed Rayeesuddin S/o Syed Fayazuddin
2	Date of Birth and age as on the date of appointment (enclose proof)	01-01-1976 – (24 Years)
3	Date of appointment (enclose proof)	28-04-2001 Appointed by Executive Committee through interview with due process. Appointment Order No.88/2000-2001/57
4	Whether appointment is on Full Time contract basis	Yes
5	Monthly Remuneration at present	23,329
6	Name of the post against which regularization proposed	Editor
7	G.O.No. and Date in which the post sanctioned/created (enclosed proof)	The Institution established by the Govt. of Hyderabad in 1888. All posts are created by the E.C of Daira, under the presidentship of Hon'ble Chief Minister.
8	Localization of cadre (state/Multi-zonal/zonal/district)	State
9	Qualification prescribed for the post as par service rules	M.A.
10	Qualification possessed by the individual (enclose proof)	M.A. SLET

11	Community of the Individual (SC/ST/BC/OC/enclose proof)	OC
12	Local Status of the individual (enclose proof)	Local
13	Roster point against which the regularization is proposed	
14	Whether the individual was working as on second Jun 2014 and being continued as on date	Yes
15	Remark if any	90 th E.C held on 4-5-2012 resolved to regularize the services.

Sd/-
DIRECTOR & SECRETARY
DAIRATUL MAARIFIL OSMANIA
OSMANIA UNIVERSITY, HYDERABAD – A.P”

The aforesaid recommendation makes it very clear that respondent No.1 was appointed in the year 2001 after following the due process and the Executive Committee, in its 90th Meeting, resolved to regularise his services. It is pertinent to note that the Government of Telangana also issued G.O.Ms.No.16 dated 26.02.2016 for regularising the services of such employees and again the present appellants recommended their cases for regularisation on 20.05.2016. The matter was pending for regularisation and the writ petition preferred by respondent Nos.1 to 4/employees i.e., W.P.No.32903 of 2010 was disposed of, by an order dated 13.12.2018, directing the employer to consider their cases for regularisation in the light of the Government Order issued on the subject.

The present appellants, instead of regularising the services of the employees, passed an order of termination on 10.01.2019 and also, at the same time, issued an Advertisement for appointing fresh candidates as Sub-Editors and in those circumstances, a second writ petition was preferred i.e., W.P.No.984 of 2019. The learned Single judge has allowed the writ petition. He has set aside the orders of termination and has directed the present

appellants to forward the cases of respondent Nos.1 to 4/employees for regularisation to the State Government.

Learned counsel appearing for the appellants has placed reliance upon the judgment delivered in the case of ***Union of India vs. Satish Joshi***¹ and his contention is that in the light of the aforesaid judgment, as the employment was for a fixed term, no right has vested for regularisation.

This Court has carefully gone through the aforesaid judgment. In the present case, the conduct of the appellants in inviting applications afresh, after terminating the services of respondent Nos.1 to 4/employees, establishes the need of Sub-Editors in the Institution. It is nobody's case that work for Sub-Editors is not available in the Institution in question and therefore, the aforesaid judgment does not help the present appellants in any manner. Not only this, respondent Nos.1 to 4/employees were appointed in 2001 for the first time. It was only in 2008, a contract was executed by them for a period of five years. They have continued in service on account of interim order and they are in service for more than two decades approximately, whereas no such contingency is involved in the case of ***Satish Joshi*** (1 supra). Not only this, the learned Single Judge has simply directed consideration of their cases by the State Government for regularisation. The State Government is yet to take a final decision in the matter of regularisation.

Reliance has also been placed upon the judgments delivered in the cases of ***Secretary, State of Karnataka vs. Umadevi***²,

¹ L.P.A.No.197 of 2013 dated 14.08.2013

² (2006) 4 SCC 1

Indian Drugs & Pharmaceuticals Ltd. vs. Workmen, Indian Drugs & Pharmaceuticals Ltd.³ and ***Ashwani Kumar vs. State of Bihar***⁴.

This court has carefully gone through the aforesaid judgments. The present case is not a case where, at the first instance, the employees were appointed for a fixed term. They were appointed on 28.04.2001 and it was only on 25.11.2008, a contract was signed between the employer and the employees appointing them for a period of five years. Thereafter, they have continued on account of the *status quo* order passed in W.P.No.32903 of 2010. As the Institution has already taken a decision for regularising the employees, the proposal was rightly forwarded to the State Government and the learned Single Judge was justified in directing the present appellants to forward the proposal afresh for regularisation to the State Government and the State Government in turn was directed to consider the cases for regularisation. There is no direction to regularise respondent Nos.1 to 4/employees mechanically. The regularisation has to be done, keeping in view the policy of the State Government and the law laid down by the Apex Court in various cases from time to time. Another important aspect of the case is that it is nobody's case that the Institution has been closed or the post of Sub-Editor is not required in the Institution. The Institution, by issuing subsequent Advertisement, has established that they are in need of Sub-Editors. Therefore, the orders of termination have been set aside by the learned Single Judge. The Institution is left

³ (2007) 1 SCC 408

⁴ (1997) 2 SCC 1

with no other choice except to reinstate respondent Nos.1 to 4/employees forthwith.

This court does not find any reason to interfere with the order passed by the learned Single Judge.

Resultantly, Writ Appeal No.555 of 2020 is dismissed.

The connected writ appeal i.e, W.A.No.275 of 2021 filed by the State Government also stands dismissed and the State Government shall consider the cases of respondent Nos.1 to 4/employees for regularisation, in accordance with law, in the light of the policy framed by the State Government on the subject.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

N. TUKARAMJI, J

06.12.2021
JSU