

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WEDNESDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL NOs: 325 AND 438 OF 2023

WRIT APPEAL NO: 325 OF 2023

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 24/02/2023 passed in WP No 1608 of 2020 on the file of the High Court.

Between:

M.P.Rajini, W/o. S. Ramesh, Age 43 Years, Occ. Junior Lecturer in Economics, Maharishi Veda Vigyan Mahavidyalaya, Junior College For Girls, Begumpet, Hyderabad.

...APPELLANT

AND

1. I. Nagendram, W/o. S. Anil Kumar, Aged about 49 years, Occ. Junior Lecturer, Maharishi Veda Vigyan Mahavidyalaya, Junior College for Girls, Begumpet, Hyderabad-500016
2. The State of Telangana, Rep. by its Principal Secretary, Higher Education Department, Secretariat Building, Hyderabad
3. The Commissioner, Intermediate Education, Nampally, Hyderabad State of Telangana.
4. Maharishi Veda Vigyan Mahavidyalaya, Junior College for Girls, Rep. by its Secretary/Correspondent, Begumpet, Hyderabad-500016.

...RESPONDENTS

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim suspension of order passed by single judge in WP No. 1608 of 2020 and consequently allow the appellant to discharge her duties as In-charge Principal in the respondent No-4 college till final disposal of Writ Appeal.

Counsel for the Appellant: SRI M.P.SANJAY

Counsel for the Respondent No.1: SRI N.RAMESH

Counsel for the Respondent No.2 & 3: GP FOR SERVICES-I

Counsel for the Respondent No.4: SRI J.ASHVINI KUMAR

WRIT APPEAL NO: 438 OF 2023

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 24/02/2023 passed in W. P. No. 1608 of 2020 on the file of the High Court.

Between:

Maharishi Veda Vigyan Mahavidyalaya, Junior College for Girls, Rep. by its Secretary/Correspondent, Begumpet, Hyderabad-500016

.....APPELLANT

AND

1. I. Nagendram, W/o S. Anil Kumar Aged about 51 years, Occ . Junior Lecturer Maharishi Veda Vigyan Mahavidyalam Junior College for Girls Begumpet, Hyderabad-500 016
2. The State of Telangana, Rep. by its Prl. Secretary Higher Education Department Secretariat Buildings, Hyderabad
3. The Commissioner, Intermediate Education Nampally, Hyderabad, State of Telangana
4. M.P.Rajani, Occ. Junior Lecturer in Econiomics, Maharishi Veda Vigyan Mahavidyalaya, Junior College for Girls, Begumpet, Hyderabad.

...RESPONDENTS

Counsel for the Appellant: SRI J.ASHVINI KUMAR

Counsel for the Respondent No.1: SRI N.RAMESH

Counsel for the Respondent No.2 & 3: GP FOR SERVICES-I

Counsel for the Respondent No.4: SRI M.P.SANJAY

The Court made the following: COMMON JUDGMENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI

WRIT APPEAL Nos.325 AND 438 OF 2023

COMMON JUDGMENT: (Per AKS,J)

Since the issue involved in both these Writ Appeals is one and the same, these Writ Appeals are taken up together and are being disposed of by way of this common judgment.

2. Both these Writ Appeals are filed aggrieved by the order, dated 24.02.2023, passed in W.P.No.1608 of 2020 by a learned Single Judge of this Court.

3. Heard Sri M.P. Sanjay, learned counsel for the appellant in W.A.No.325 of 2023 and respondent No.4 in W.A.No.438 of 2023, Sri J. Ashvini Kumar, learned counsel for the appellant in W.A.No.438 of 2023 and respondent No.4 in W.A.No.325 of 2023, Sri N. Ramesh, learned counsel appearing for respondent No.1 and the learned Government Pleader for Services-I appearing for respondent Nos.2 and 3, in both the Writ Appeals.

4. For the sake of convenience, the submissions made in W.A.No.325 of 2023 are discussed hereunder:

5. Learned counsel for the appellant had contended that the appellant and respondent No.1 were selected as Junior Lecturers in the respondent No.4-institution in the year 1995. The appellant was selected as Junior Lecturer in Economics, whereas the respondent No.1 was selected as Junior Lecturer in English. The respondent No.3 has prepared the seniority list showing the appellant as senior to the respondent No.1. Aggrieved by the same, the respondent No.1 approached this Court by filing the subject W.P.No.1608 of 2020, nearly after 25 years, contending that she should be declared as senior to the appellant on the ground that she has secured more marks than the appellant in the selections and that the seniority has to be fixed as per Rule 33(b) of the Telangana State and Subordinate Service Rules, 1996 (for short, 'the Rules') i.e. based on merit. The learned Single Judge of this Court *vide* impugned order, dated 24.02.2023, observing that the respondent No.1 ought to have been placed above the appellant, was pleased to allow the subject Writ Petition in favour of the respondent No.1, without appreciating any of the contentions raised by the appellant. Aggrieved by the same, W.A.No.325 of 2023 is filed by the appellant and W.A.No.438 of 2023 is filed by the respondent No.4-institution.

6. Learned counsel for the appellant further contended that the respondent No.1 and the appellant have appeared for selections in two different subjects i.e. Economics and English. When the appellant and respondent No.1 have appeared for selections in two different subjects, their merit cannot be compared. Further, Rule 33(b) of the Rules has no application to the present case, as admittedly, the respondent No.4-institution is a Private Aided Educational Institution and the said Rule is not applicable to Private Aided Educational Institutions. But, the learned Single Judge, without appreciating the said facts, had allowed the subject Writ Petition in favour of respondent No.1. Therefore, appropriate orders be passed in the Writ Appeal by setting aside the impugned order, dated 24.02.2023, and allow the Writ Appeal.

7. On the other hand, learned counsel for the respondent No.1 had contended that the learned Single Judge was justified in allowing the subject Writ Petition in favour of the respondent No.1, as respondent No.1 has secured more marks than the appellant. Further, by following the law laid down by the Honourable Supreme Court in **Bimlesh Tanwar v. State of Haryana**¹, the learned Single Judge has rightly allowed the subject Writ Petition, as admittedly, the respondent No.1 has secured more marks than

¹ (2003) 5 SCC 604

the appellant. A person who secured more marks in the selections has to be placed over and above the person who has secured less marks. Therefore, the respondent No.4 ought to have treated the respondent No.1 as senior to the appellant. Hence, there are no merits in the Writ Appeal and the same is liable to be dismissed.

8. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that the learned Single Judge has erred in allowing the subject Writ Petition in favour of the respondent No.1 on the ground that the respondent No.1 has secured more marks than the appellant in the selections. When the appellant and the respondent No.1 were selected as Junior Lecturers in two different subjects, the question of comparing the merit would not arise. Further, Rule 33(b) of the Rules is also not applicable to respondent No.4-institution, since it is a Private Aided Educational Institution. The said Rule is applicable only to Government services but not to Aided services. Therefore, the learned Single Judge was not justified in allowing the subject Writ Petition in favour of the respondent No.1 by directing the respondent Nos.2 to 4 to treat the respondent No.1 as senior to the appellant. Hence, the impugned order, dated 24.02.2023, is liable to be set aside.

9. Accordingly, both the Writ Appeals are allowed and the impugned order, dated 24.02.2023, passed in W.P.No.1608 of 2020 by the learned Single Judge of this Court, is set aside. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Appeals, shall stand closed.

SD/- B.S.CHIRANJEEVI
JOINT REGISTRAR
GJP
SECTION OFFICER

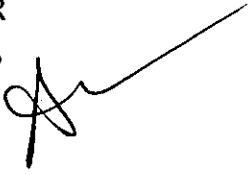
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To,

1. The Principal Secretary, Higher Education Department, Secretariat Building, State of Telengana, Hyderabad
2. The Commissioner, Intermediate Education, Nampally, Hyderabad State of Telengana.
3. The Secretary/Correspondent, Maharishi Veda Vigyan Mahavidyalaya, Junior College for Girls, Begumpet, Hyderabad-500016.
4. One CC to SRI M.P.SANJAY, Advocate [OPUC]
5. One CC to SRI J.ASHVINI KUMAR, Advocate [OPUC]
6. One CC to SRI N.RAMESH, Advocate [OPUC]
7. Two CCs to GP FOR SERVICES-I, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

BSR

GJP



HIGH COURT

DATED: 16/08/2023

COMMON JUDGMENT

W.A.Nos.325 AND 438 OF 2023



**ALLOWING BOTH THE WRIT APPEALS,
WITHOUT COSTS**

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MMA
27/9/2023