
(1999) 11 AP CK 0063

In the Andhra Pradesh High Court

Case No : WA No. 1476 of 1999 and WP No. 146 of 1991

A.C. Alexander

APPELLANT

Vs

Director of School Education Hyderabad and others

RESPONDENT

Date of Decision : 02-11-1999

Acts Referred:

Citation : (2000) 1 ALD 234 : (1999) 6 ALT 135

Hon'ble Judges : M.S. Liberhan, C.J;V.V.S. Rao, J

Bench : Division Bench

Advocate : Mr. G.S. Rao, for the Appellant; Government Pleader for Education, for the Respondent

Judgement

V.V.S. Rao, J

1. This writ appeal is filed by the unsuccessful petitioner against the order of the learned single Judge dated 23-8-1999 in WP No.146 of 1991. The learned single Judge disposed of the writ petition upholding the validity of the proceedings of the third respondent in Rc NO.A7/13960/89-90 dated 2-11-1990 (impugned order, for short), while observing that the petitioner's interest is taken care of by the management of the third respondent by appointing him as Educational Advisor by protecting his remuneration which he could have drawn as Headmaster. The order of the learned single Judge is mainly challenged on the ground that the impugned order was passed by the third respondent with scant regard to principles of natural justice, that the learned single Judge failed to appreciate the fact that the appellant was appointed as Headmaster after following the due process of selection as per the rules and that when the matter was referred to the first respondent for ratification, the impugned order came to be passed without notice. These grounds of challenge can well be appreciated by a brief reference to the facts which are not in dispute.

2. The appellant is highly qualified. He is a Post-Graduate in Arts and also holds a graduation degree in Bachelor of Education. During 1978-83, as a Missionary

Priest of Catholic Church, established and organised St. Francis High School at Venkatagiri and worked there as a teacher and Principal. He had also worked as a Teacher and Correspondent of Deepthi High School at Kovvur. During June 1989 to November 1989, he worked as a Port-Graduate teacher in Satyam Public School, Devarayamchala, Secunderabad and resigned the job when he was offered the post of Headmaster in the third respondent-School on Government pay scales.

3. The 3rd respondent is a School under the Chairmanship of the District Collector. It advertised the post of Headmaster, a post of B.Ed., Assistant in Mathematics and seven posts of Secondary Grade Teachers in the News papers dated 20-10-1989. The Appellant fills in the required qualifications as per the advertisement. Interviews were conducted on 31-10-1989 and the appellant was selected and appointed as Headmaster with immediate effect by proceedings of the District Collector-cum-Chairman of the 3rd respondent school dated 31-10-1989. It may be mentioned that the selection committee consisted of the District Collector as Chairman of the selection committee, the District Educational Officer (2nd respondent) as member-Secretary of the selection committee, and the head of the Institution, the acting Headmaster as member of the selection committee. The said committee after screening and interviewing four candidates for the post of Headmaster, placed the appellant at first place and hence he was appointed as Headmaster.

4. The petitioner joined as Headmaster and worked for about one year earning one annual increment.

5. The 2nd respondent by letter dated 30-7-1990 addressed to the first respondent requested to consider and approve the appointment of the appellant as Headmaster of the 3rd respondent-School. However, the first respondent in his proceedings dated 10-10-1990 rejected the appointment of the appellant. Based on the orders of the first respondent, the third respondent issued the impugned proceedings terminating the services of the appellant. In the place of the appellant, one Mr. Abdul Kharim, the school Assistant was appointed as in-charge Headmaster, but by his letter dated 3-1-1991, he did not accept the appointment as Headmaster. In the meanwhile, the District Collector as Chairman of the 3rd respondent-School addressed a letter to the Director of School Education, the first respondent herein, on 30-12-1990 justifying the appointment of the appellant as Headmaster. In the said letter, the District Collector stated that the appellant was selected after observing the required formalities as per rules though he did not work in any aided post in view of his vast experience in the field of education as well as his higher qualifications, and therefore his appointment may be ratified. This shows that the Chairman and the District Collector also agreed with the selection committee recommendations that the appointment of the appellant is made in accordance with the rules. Aggrieved by the order of the 3rd respondent-School, the appellant approached this Court by filing WP No.146 of 1991. This Court, by interim order dated 8-1-1991 in WP

MP No. 170 of 1991, suspended the impugned order and thus enabled the appellant to continue as Headmaster.

6. The respondents did not file any counter-affidavit in the writ petition. Nevertheless, the learned GP submitted before the learned single Judge that the appellant was not appointed as Headmaster in accordance with the procedure and that the procedure adopted by the third respondent-School is contrary to G.O.Ms No-167 dated 9-3-1994 and G.O.Ms No.932 dated 17-10-1994. Having accepted the same, the learned single Judge further observed that as the Managing Committee appointed the appellant as Educational Advisor with the same remuneration, no prejudice is caused to the appellant.

7. The learned Counsel for the Appellant before us submitted that the impugned order is in gross violation of the principles of natural justice. As observed by the District Collector, a Selection Committee was duly constituted consisting of the District Collector, District Educational Officer and the in-charge Headmaster. The Selection Committee after interviewing four candidates selected the appellant as Headmaster and appointed him who worked for about one year earning one annual increment. The termination order was passed without conducting any enquiry and without giving any notice, but only on the ground that the first respondent has not ratified his appointment. The learned GP for Respondents is not able to justify the reasoning adopted by the learned single Judge. It is not possible to accept the finding of the learned single Judge that the appointment of the appellant is contrary to the orders of the Government in G.O.Ms No.167 and 932, which were issued in the year 1994. The appellant was appointed in October, 1989 at which point of time these two G.Os., were not even in existence. In fact, the District Collector, in the capacity as Chairman of the School addressed a letter on 30-12-1990 to the first respondent clearly stating that the appellant was appointed after duly observing the formalities as per rules. This position is not seriously disputed by the learned Government Pleader for respondents. Therefore, the order of the 3rd respondent dated 2-11-1990 as consequence of the orders of the 1st respondent refusing to ratify the appointment of the appellant is unsustainable, being violative of the principles of natural justice and also unreasonable and without due application of mind.

8. For the above reasons, we accept the Appeal, set aside the order of the learned single Judge and allow the Writ Petition No. 146 of 1991, without order as to costs.