
(2000) 07 AP CK 0021

In the Andhra Pradesh High Court

Case No : W.A. No's. 5593, 14578 and 25080 of 1996

A.S. Girish

APPELLANT

Vs

Tirumala Tirupathi Devasthanams, Tirupathi and others

RESPONDENT

Date of Decision : 28-07-2000

Acts Referred:

Citation : (2001) 2 ALD 89 : (2001) 2 ALT 217

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. G. Pedda Babu, for the Appellant; Mr. A. Ramalingeswara Rao, SC for TTD, for the Respondent

Judgement

B.S.A. Swamy, J.—The petitioners in these three writ petitions, who are working in various Departments of S.V. College of Music and Dance for over a decade, filed these writ petitions seeking regularisation of their services and for payment of time scales of pay attached to the posts to them.

2. The said college was started by Tirumala Tirupathi Devasthanams about two decades back. Sri A.S. Girish, petitioner in WP No.5593 of 1996, was appointed as a Lecturer in Vocal Music on 13-9-1991 due to the retirement of the incumbent on 24-2-1987, that is nearly after four years of the retirement of the incumbent, on part time basis without notifying the vacancy and without filling up the vacancy on regular basis even at that length of time. Since that date, the petitioner is working in that capacity at a remuneration of Rs.20/-per hour.

3. Sri K. Veera Narayana, petitioner in WP No. 14578 of 1996, was appointed as a Flute Lecturer on 2-12-1991 in a vacancy that had arisen as the incumbent left the services on 1-5-1984. In this case, the post was sought to be filled up on ad hoc basis having kept the post vacant for seven years.

4. Suit. M. Uma Madhubala was appointed as a part time Lecturer in Bharatanatyam on 29-2-1992 in a vacancy that had arisen on 1-4-1989 that is about three years after the vacancy had arisen.

5. When the Court confronted the learned Counsel for the respondent-Devasthanam as to how the college was functioning without Lecturers for so many years, he draws my attention to the counter wherein it is stated that these posts are being manned by part time Lecturers after the vacancies have arisen on regular basis.

6. Since the time of their appointment, the petitioners are working for a paltry sum of Rs.20/- per hour as if Lord Venkateswara, the richest God in the world, cannot afford payment of regular scales of pay to the persons who are training the people to serve Him. I do not know whether I have to appreciate the action of the respondents in saving little money by not filling up the regular vacancies for a decade or express my anguish over the way in which the Executive Officer dealt with the petitioners so inhumanly by paying Rs.20/- per hour over a decade.

7. It also came to light that one V.K. Sashikala seemed to have been appointed on a consolidated pay of Rs.1,600/- per month as a Lecturer in Bharatanatyam. If I have to believe the averments of the affidavit filed in support of the writ petition, the Lecturers are expected to participate in the programmes concerning their Departments organised by the Tirumala Tirupathi Devasthanam. If that is the case, if a lady Lecturer who is teaching Bharatanatyam is paid Rs.1,600/- per month and if she has to give a performance on any festive occasion, even the yearly salary may not be sufficient for the costumes she has to wear for giving performance. Be that as it may, the said Sashikala seemed to have filed WP No.7843 of 1997 on the file of this Court for the same relief the petitioners are now seeking and this Court disposed of the writ petition on 24-4-1997 by directing the respondents to consider her case not only for continuing her as Lecturer but also for regularising her services in accordance with rules taking into account the work load as recommended by the Head of the Department of Dance in the respondent-college. The then Executive Officer faithfully implemented this order in his proceedings No.ROC.D6/15970/DEO/96, dated 8-11-1998 rejecting her case for regularisation on the ground that she was not appointed on a regular basis. This type of IAS Officers are ruling the country. Had she been appointed regularly in the college, perhaps there was no need for her to come to this Court and obtain a direction and this Court would not have given a direction to the respondents to regularise her services.

8. Coming to the present three writ petitions, the Executive Officer of the respondent-Devasthanam woke up in the year 1998 perhaps after receiving notices in these cases and issued a notification on 15-4-1998 calling for applications to fill up five posts of Assistant Lecturers in Vocal, Nadaswaram and Music and the said notification was published in The Hindu on 19-4-1998. Though the petitioners tried to prevent the respondents from filling up the vacancies, this Court did not come in the way of the Management to fill up the vacancies. But now I was told across the Bar that the TTD did not fill up vacancies at that point of time and issued a fresh notification on 11-7-2000 published in Eenadu on 12-7-2000 wherein they tried to fill up eight vacancies in Lecturers and three

vacancies in Assistant Lecturers in various faculties including the faculties in which the petitioners are working.

9. Learned Counsel for the respondents strenuously contends, of course, as usual, like any other Management, that the petitioners are not appointed on regular basis by subjecting them to selection process and these appointments were made without following rule of reservation. If the petitioners were not appointed on regular basis, the first question that falls for consideration would be who is at fault and whether the petitioners can be punished for the illegal and arbitrary action of the Executive Officers in office.

10. As I have already pointed out, these petitioners were appointed keeping the posts vacant for number of years and it is not known who came in the way of the Executive Officer in filling up vacancies on regular basis. Having appointed them for a paltry sum of Rs.20/- per hour about a decade back and taking advantage of the dominant position he enjoys, now he takes the stand that they were not regularly appointed. This Court cannot forget the fact that these petitioners are working without any complaint from any quarter and at this stage, the respondents cannot be allowed to take the stand that as the petitioners were not appointed on regular basis, their services cannot be regularised. Such an unethical stand that is being taken by the Management from time to time was not only deprecated by this Court but also by the Apex Court. But the Officers were not feeling shy of their actions inspite of indictments they are receiving from the Courts. This shows the respect they had for the administration of justice in this country.

11. The second question that falls for consideration is whether a direction should be given to the respondents to regularise the services of the petitioners or subject them to the process selection pursuant to the notification dated 11-7-2000.

12. As the Officers are also human beings, who cannot claim that their actions are dispassionate as being pointed out regularly by Courts, if I subject the petitioners to the selection process conducted by them, I am sure, they will see that these people are thrown out of employment. On the other hand, the Supreme Court repeatedly held that Managements cannot unsettle the settled things and the very fact that the petitioners are continued for over a decade reveals that they are competent and can be Lecturers knowing their job requirements. Hence, I am not inclined to subject the petitioners to the selection process and following innumerable judgments of the Supreme Court, I am inclined to give a direction to the respondents to regularise the services of the petitioners.

13. The third question that falls for consideration is in which capacity the petitioners have to be regularised. As it is evident from the fresh notification, the teaching staff were categorised into Assistant Lecturers and Lecturers for the first time. Learned Counsel for the respondents contends that their appointments

being ad hoc, they can be considered for regularisation in the category of Assistant Lecturers. But in the appointment orders given to them at the time of appointment, there was no categorisation in the college as Lecturers and Assistant Lecturers and they were appointed as part time Lecturers. The Counsel for the respondents tries to argue that though they were appointed as Lecturers they are not qualified for appointment as Lecturers. The counter-affidavit filed by the respondents reveal that the petitioners are eligible for appointment to both the posts of Lecturers as well as Assistant Lecturers. As their initial appointment was for the post of Lecturers. I hold that the contention of the learned Counsel for the respondents that they cannot be appointed as Lecturers straight away has no legs to stand and accordingly rejected.

14. The fourth question raised by the respondents is that some posts in which the petitioners have worked are reserved for reserved categories. Though it is not known to which category the petitioners belong, luckily the posts notified for these Departments of Vocal and Music are earmarked for open category. Hence, there may not be any difficulty in giving a direction to regularise the services of the petitioners in those vacancies.

15. Coming to Smt. Madhubala who is working as Lecturer in Bharatanatyam, the post was not notified. From the statement given by the Principal of the College way back in 1996, there is a regular vacancy in the Department of Bharatanatyam due to the voluntary retirement of the incumbent on 1-4-1989. It is not the case of the respondents that this post was filled up with some one and no explanation was forthcoming why this post was not notified while notifying other vacancies to be filled by direct recruitment.

16. Hence, I am inclined to give a direction in the case of Madhubala also to regularise her services in the category of Lecturer. The respondents are given four weeks time to regularise the services of the petitioners in all these petitions. The respondents are directed to pay time scales of pay to the petitioners from 1-8-2000.

17. The writ petitions are accordingly allowed and the petitioners are entitled for costs in these cases for the unreasonable attitude shown by the respondents.

18. Advocate's fee is fixed at Rs.1,000/-in each of the writ petitions.