
(1999) 09 AP CK 0097

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10282 of 1997

C. Pushpalatha

APPELLANT

Vs

Executive Officer, TTD, Triupathi and another

RESPONDENT

Date of Decision : 07-09-1999

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1999) 6 ALD 165 : (1999) 3 AnWR 200

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

Bench : Single Bench

Advocate : Mr. G. Dasaradharami Reddy, for the Appellant; Mr. A. Chandraiah Naidu, SC for TTD, for the Respondent

Judgement

1. The petitioner working as Bill Clerk/Junior Assistant in the hostel attached to Sri Padmavathi Women's College (SPW College) since 1988 filed this writ petition in the year 1997 questioning the inaction on the part of the respondents in not regularising her services while conferring the said benefit to others working in the hostel.

2. This Court on 6-11-1997 while admitting the writ petition issued Notice to the respondents in WPMP No.12480 of 1997, in which the petitioner sought a direction to the respondents to consider her case for regularisation as Junior Assistant, pending disposal of the writ petition. Having received the Notice from this Court, the respondents stopped payment of salary due to the petitioner. In those circumstances, the petitioner filed WPMP No.44685 of 1998 and my learned brother B. Sudershan Reddy, J., by order dated 31-3-1999, having held that there is no justification whatsoever on the part of the respondents in not paying any salary whatsoever to the petitioner, directed the respondents to pay the entire arrears of salary payable to the petitioner within four weeks from that day and continue to pay the salary every month during the pendency of the writ petition. Having received the order dated 31-3-1999, from this Court, the respondents came up with an application WVMP No.2203 of 1999 seeking

vacation of the said interim order.

3. The undisputed facts of this case are that the petitioner was appointed on 8-8-1988 as Bill Clerk, which was treated as a post on par with the Junior Assistant, by the Warden of SPW College hostel. Thereafter, the Hostel Committee, consisting of Principal, Warden, resident tutors and house managers, at the meeting held on 30-12-1988 resolved to regularise the services of the petitioner as Bill Clerk with effect from forenoon of 8-8-1988, the date on which she was appointed. The hostels attached to the Colleges run by Tirumala Tirupati Devasthanams (TTD) are treated as separate units and all the appointments and promotions were to be made by the Wardens with the prior approval of the Hostel Committees and in this case though the Warden appointed the petitioner on ad hoc basis, the Hostel Committee ratified the action of the Warden and regularised the services of the petitioner from the date of her appointment. Subsequently, it seems that the hostels were taken over by the TTD, in 1991. From the proceedings of the Executive Officer, respondent No.I herein, dated 21-6-1991, in Roc No.D8/28071/87 it is seen that the TTD Board in its meeting held on 19-12-1989 adopted a Resolution No.151 to release an amount of Rs.8,00,000 towards payment of differential wages to the hostel workers attached to three colleges namely SPW College, S.V. Arts College and S.G.S. Arts College, that are being run by the TTD, including the hostel in which the petitioner is working. In another Resolution No.751 dated 1-12-1990, TTD Board resolved to regularise the service of the hostel workers in the TTD as a separate Unit. Pursuant to this Resolution, the Executive Officer seemed to have placed the proposals before the TTD and for regularisation of the services of the employees working in the hostels. At their meeting held on 3-6-1991 the TTD in its Resolution No. 192 resolved (i) to treat the hostel workers of the said three college hostels as separate unit; (ii) to ratify the appointments and promotions made by the Wardens of the hostels, as mentioned in Annexure-I enclosed therewith; (iii) to create 139 posts in various cadres in the hostels to regularise the hostel workers already working in the above hostels as shown in Annexure-II and (iv) to adopt the Rules relating to the method of recruitment, qualifications, age and pay-scales of the hostel workers on par with the similar posts in TTD. The method of recruitment rules of each cadre and the revised pay-scales of 1986 adopted to the cadres are noted against each column and is shown in Annexure-III enclosed therewith. The Board also authorised Chief Warden/ Warden to appoint employees on temporary basis whenever there is need for additional staff to run the hostel with prior approval of the Hostel Committee and Executive Officer of the TTD. It is seen from Annexure-I the name of the petitioner was not found and the reason given by the respondents Counsel is that only the services of the hostel workers who are appointed prior to 1986 were included in that Annexure. When the TTD is not paying the minimum salary in the time scale of pay attached to the post, the petitioner seemed to have made a representation to the authorities concerned and with effect from 1-1-1992 she is being paid minimum pay in the time-scale of pay, but without extending other

benefits. Subsequently, the TTD seemed to have regularised the services of some of the employees appointed much later to the petitioner and started paying the time-scale of pay attached to the posts. It is also not in dispute that some of the hostel workers, not covered by Resolution No. 192 dated 3-6-1991, approached this Court by filing WPNo.10873 of 1994 seeking regularisation of their services and payment of salary attached to the post and the same was allowed by order dated 22-1-1995, the TTD seemed to have carried the matter in appeal but without success. Thereafter, the Board seemed to have carried the matter to Supreme Court and as per the version of the Counsel for the TTD the relief was restricted only to the petitioners therein. Anyhow, I need not go into that controversy in deciding the issue before me.

4. When the services of the persons, who are appointed much later to the petitioner are regularised, she approached this Court by filing this writ petition in the year 1997 and as a counter-blast, the respondents stopped payment of salary that was being paid to the petitioner at the time when she approached this Court and questioning that action, as stated earlier, the petitioner filed WPMP No.44685 of 1998 and this Court by order dated 31-3-1999, directed the respondents to pay the salary that is being paid to her at the time of filing of the writ petition and also to pay the arrears of salary within four weeks from that date.

5. In the petition filed seeking vacation of the above order dated 31-3-1999, the respondents contended that the petitioner was not appointed on regular basis and she was appointed by the Warden without prior approval of the Executive Officer. From the facts stated above, it is seen that prior to 1991 the hostels that are attached to the above said three colleges run by the TTD were treated as a separate unit and the appointing authority is Warden but not the Executive Officer. The TTD never treated them as part and parcel of their organisation. For the first time the TTD in its Resolution No.751, dated 1-12-1990, has taken a policy decision to regularise the services of the employees of the hostels as separate unit. Pursuant to the above Resolution, proposals for regularisation of services of the employees, who are working prior to 1986 were placed before the TTD and the Board in its meeting held on 3-6-1991 while regularising the services of the employees shown in the Annexure Categorically resolved to ratify all the appointments and promotions made by the Wardens of the hostels as shown in the Annexure. But, as per the version of the Counsel for the respondents they are all appointed prior to 1986. The TTD has further taken a decision that the Chief Warden/Warden shall have power to appoint employees on temporary basis whenever there is need for additional staff to run the hostels with prior approval of the Hostel Committee and the Executive Officer, TTD. This Resolution came into effect only from 3-6-1991. It is not in dispute that earlier the Hostel Committees were managing the affairs of the hostels including the appointments and promotions that are being made in the hostels. As already stated above, the Hostel Committee by its Resolution dated 30-12-1988, regularised the services of the petitioner with effect from 8-8-1988.

6. I have gone through the entire counter-affidavit filed by the respondents. The respondents did not advert to the ratification by the Hostel Committee at all. It is stated that the Warden clandestinely appointed the petitioner without prior approval of the Executive Officer. As seen from the resolution adopted by the Board, the question of taking prior permission of the E.O. for making appointments will arise only after 3-6-1991, but not to the appointments made earlier to that date. In this case, the appointment of the petitioner was made on 8-8-1988 and the action of the Warden was ratified by the Hostel Committee in its meeting held on 30-12-1988. It is also not the case of the respondents Counsel that the Resolution of the Hostel Committee was never rejected by the TTD at any point of time. Hence, it is preposterous to contend that the petitioner was not appointed as per the Rules. I have no hesitation on hold, whether the appointment was temporary or regular, as the Hostel Committee has ratified the action of the Warden in its meeting held on 30-12-1988, it cannot be said that the petitioner was appointed irregularly or clandestinely.

7. Further fact we have to keep in mind is that the petitioner was working from 1988 onwards. The respondents in their counter-affidavit categorically admitted that they have regularised the services of some other employees, who are appointed in 1989. The designations given to them are different. But, when the respondents regularised the services who are appointed in 1989, I do not see any reason or hitch in not regularising the services of the petitioner, who was appointed much earlier to those individuals. Further, this Court has already, keeping the long services put in by the hostel workers gave a direction to regularise the services of those workers, who are not governed by the Resolution of the Board dated 3-6-1991 in WP No.10873 of 1994 dated 22-1-1995. Hence, I do not see any justification in the action of the respondents in not regularising the services of the petitioner, who was appointed much prior to taking over the hostels by the TTD. Likewise, the question of not paying salary in the time scale of pay attached to the post is also highly highly illegal, arbitrary and offends Article 14 of the Constitution of India.

8. For all the reasons given above, the writ petition is allowed and a direction is given to the respondents to extend all the benefits that are applicable to the employees appointed on regular basis, as the question of regularising the service of the petitioner by the TTD does not arise because her services were already regularised by the Hostel Committee which was competent to make appointments at that point of time, and also to pay arrears of salary from the date of her appointment i.e., 8-8-1988 with all consequential benefits. If any arrears have to be paid, the respondent No.1 Executive Officer shall pay the same within four weeks from the date of receipt of a copy of this order. Any deviation will be viewed very seriously and the Executive Officer will be held personally responsible. There will be no order as to costs.

9. That Rule Nisi has been made absolute as above.