
(1997) 07 AP CK 0091

In the Andhra Pradesh High Court

Case No : Writ Petition No. 29408 of 1995

Ch. Sivaram

APPELLANT

Vs

Taluk Junior College and Others

RESPONDENT

Date of Decision : 12-07-1997

Acts Referred:

Citation : (1997) 6 ALT 12

Hon'ble Judges : B. Sri Atchutananda Swamy, J

Bench : Single Bench

Advocate : M. Radhakrishna, for the Appellant; P. Suresh, Govt. Pleader for Education, for the Respondent

Final Decision : Allowed

Judgement

B. Sri Atchutananda Swamy, J.—Heard the learned Counsel for the petitioner Sri M. Radha Krishna and the learned Counsel for the respondents Sri P. Suresh.

2. The petitioner who is the son of a deceased employee of the 1st respondent institution is running from pillar to post for nearly 12 years for appointment on compassionate grounds in consonance with the policy of the Government.

3. The brief facts that are necessary for adjudicating the dispute are that the 1st respondent management is running a High School as well as Intermediate Course in the same compound and the petitioner's father died on 3-11-1985 while he was working as a Principal/Headmaster of the School. On 4-12-1985 the petitioner being the eldest son of the deceased employee submitted an application to all the respondents seeking appointment on compassionate grounds as per the policy of the Government. While the Regional Joint Director has taken 3 years time to recommend his case for appointment, the District Collector has taken one more year to recommend his case for appointment. At this stage I need not go into the question whether his recommendation is required for appointment of an employee in a private aided institution and what has happened thereafter. When the 2nd respondent is not acting upon the

recommendations of those two officers, the petitioner filed Writ Petition No. 13018 of 1990 on the file of this Court. While that writ petition is pending, the Management Committee of the 1st respondent at its meeting held on 12-7-1992 passed a resolution to appoint the petitioner as L.D.C. by creating supernumerary post in the College without salary and he was also given appointment on the same day. On 13-10-1992 the petitioner filed an application to reconsider the resolution dated 12-7-1992 and sought for payment of salary. The Managing Committee at its meeting held on 31-12-1992 passed a resolution giving the petitioner time scale of pay Rs. 910-30-1240-35-1625 plus usual allowances and in this order the Secretary of the Institution categorically agreed to pay the salaries to the petitioner from the funds of the management. As the Committee itself has agreed to pay the salary, the petitioner seemed to have withdrawn the writ petition. Some time later, the 2nd respondent in his proceedings in R.C.420/JC 5-3/93 dated 15-12-1994 directed the Correspondent to accommodate the petitioner as Record Assistant in High School Section in consultation with the District Educational Officer as there is no provision to create supernumerary post in private aided Junior Colleges. Thereafter no action was taken to accommodate the petitioner in High School. In the meantime on the basis of a representation filed by the petitioner the 2nd respondent revised his orders dated 15-12-1994 in his proceedings in R.C.No. 420/JC 5-3/93, dated 19-10-1995 and directed the correspondent to accommodate the petitioner in the Junior College and report compliance immediately. After issuance of the said proceedings, the 1st respondent would have appointed the petitioner in any of the existing vacancies as the Director himself has agreed for accommodating the petitioner in the College itself. But unfortunately the management without accommodating the petitioner in the aided post that was newly sanctioned in its proceedings dated 11-4-1996 appointed one M, Sreenivasa Murthy (OC) and one Nageswararao (SC) as Junior Assistants in High School Section and Subbarao as Record Assistant in O.C. category. From this it is evident that even if a vacancy is not in existence at the time when the Director issued orders, vacancies have arisen later both in the cadre of Junior Assistant as well as Record Assistant in the institutions maintained by the 1st respondent. Though the petitioner is working as Junior Assistant from 12-7-1992, till this date without receiving even a single pie as remuneration for the services rendered by him all these 11 years the respondent authorities did not choose to appoint him in any of the above vacancies but filled those vacancies with fresh recruits. Such an action on the part of the management is quite illegal and arbitrary.

4. The learned Counsel appearing for the respondent management submits that under a mistaken impression that these posts are separate and they have nothing to do with the appointment of the petitioner on compassionate ground they have resorted to fresh recruitment. Whatever may be the intention of the management, the sufferer is the petitioner who was forced to work without salary for nearly 5 years and he was deprived of his appointment for another 7 years from 1985 though he is entitled to get appointment as a matter of right in

accordance with the policy of the Government, Whatever may be the anguish expressed by the Courts on the sorry state of affairs, the bureaucracy is not prepared to mend its ways and realise its duty towards the Nation and citizens as well.

5. In the circumstances of the case, I feel that the ends of justice will be met by giving a direction to the management to pay the time scale of pay from 12-7-1992 till 19-10-1995 from its own funds (and from 19-10-1995) and from that date the Director of Intermediate Education is directed to release the grant-in-aid to the post held by the petitioner if necessary by withholding the grant-in-aid for the junior most Junior Assistant. The respondents are given 3 months time to comply with the orders of this Court.

6. With the above directions, the writ petition is allowed. No costs.