
(1996) 06 AP CK 0025

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 499 of 1996, W.A.M.P. No. 1061 of 1996 and W.P. No. 5397 of 1995

G.V. Narasimham

APPELLANT

Vs

The Govt. of A.P. and Others

RESPONDENT

Date of Decision : 27-06-1996

Acts Referred:

Citation : (1997) 5 ALT 653 : (1996) 3 ALT 567

Hon'ble Judges : Lingaraja Rath, J;B.S. Raikote, J

Bench : Division Bench

Advocate : M.V. Ramana Reddy, for M. Ravindranath Reddy, for the Appellant; Govt. Pleader for Respondent Nos. 1 and 2, A.V. Dhananjaya Rao and V. Jogaiah Sarma, for the Respondent

Final Decision : Allowed

Judgement

Lingaraja Rath, J.—Though this matter was originally listed for disposal of the W.A.M.P. seeking suspension of the order passed by the learned single Judge in WVMP 2774/95 in WPMP No. 6694/95 in W.P. No. 5397/95 dated 10-4-1996 yet as the moot question raised therein also is the same as raised in the writ appeal, we propose to dispose of the writ appeal itself along with the WAMP for which both the counsel were put to notice.

2. The brief facts are that the appellant was appointed on 1-10-1964 as a Lecturer in the respondent No. 3-College, a private aided oriental college and while so continuing, he was appointed as the in-charge Principal on 1-7-1990, that post having fallen vacant. Another oriental college, STRNSS Kalasala, Ongole, Prakasam District was closed by the Government because of falling students strength, in G.O.Rt.No. 401, Education (CE-I) Department, Government of Andhra Pradesh, dated: 1-11-1994 and taking the decision therein that the staff working in the closed institution are to be absorbed where there is work load and against existing vacant posts in other oriental colleges. Respondent No. 4 who was the Principal of the STRNSS Kalasala, Ongole, Prakasam District was

transferred on 10-3-1995 to the respondent No. 3-College. Aggrieved by the transfer the appellant who had to lose his assignment as Principal in-charge as a consequence filed W.P. No. 5397 of 1995. An order of suspension of the Government Order passed in WPMP No. 6694 of 1995 dated 22-3-1995 was subsequently vacated by the learned single Judge in WVMP No. 2774 of 1995 dated 19-4-1996.

3. The sole question urged by Mr. M.V. Ramana Reddy learned counsel appearing for the appellant is that under G.O.Ms. No. 233, Education (CE-I) Department, Government of Andhra Pradesh, dated 20-10-1993 every aided oriental college is to be treated as a single unit with promotion to the post of Principal confined to the incumbents of the college for which reason appointment of an outsider as Principal is not permissible. He also places reliance on an earlier G.O.Ms. No. 158 Education (UE) Department, Government of Andhra Pradesh, dated 10-6-1987. In the counter-affidavit filed by respondent No. 2, the Commissioner of Collegiate Education, the transfer of respondent No. 4 to the college is supported on the averment that G.O.Ms. No. 158, Education (UE) Department, Government of Andhra Pradesh, dated 10-6-1987 remained no longer operative after issuance of Act No. 25 of 1990 under which the recruitment process for the posts of teaching staff in private colleges was deleted from the purview of the A.P. College Service Commission. Though the Government had issued G.O.Ms. No. 127 Education, dated 7-6-1993 thereafter prescribing procedure for selection of teaching staff in private degree and junior colleges yet that G.O. is silent so far as the private aided oriental colleges are concerned, and that in respect of those colleges Government orders are awaited.

4. Even if such stand is fully accepted, yet the counter-affidavit makes no attempt to explain G.O.Ms. No. 233 Education, dated 20-10-1993 wherein specific decision was taken that private aided oriental colleges shall be each a separate unit and seniority of staff is limited to that college only. The occasion for issuance of the G.O. was the claim of Lecturers in English and History in those colleges to be appointed as Principal as hitherto only persons in the oriental discipline were being promoted as Principals. On a consideration of the aspects involved the Government decided in paragraph 7 as follows:

"Government have examined the proposal and after careful consideration, decided that Lecturers in English and History subjects and working in Private Oriental Colleges are also eligible for promotion to the post of Principals of Oriental Colleges along with lecturers in Sanskrit based on the combined seniority of the Lecturers working in that particular aided college, treating the college as a single unit, providing equal opportunity to them on par with lecturer in Sanskrit and lecturers other than Sanskrit in Government Degree Colleges."

Even in paragraph 6 of the Order it had already reiterated that each college is a separate unit.

5. We had adjourned the case to enable Sri V. Jogaiah Sarma, learned Counsel

appearing for respondent No. 4 to ascertain whether there has been any other Government order or provision in the statute superseding G.O.Ms. No. 233 Education(CE-I) Department dated 20-10-1993 but to-day he expresses of mere being no other circular in the field.

6. G.O.Ms. No. 233 dated 20-10-1993 was a specific circular on the question of seniority in private aided oriental colleges and filling up of the posts of Principal in those colleges treating the colleges as single units. On the other hand, G.O.Rt. No. 401 dated 1-11-1994 is only relating to the abolition of the STRNSS Kalasala and took a general decision there that the staff of the closed institution shall be absorbed where there is work load. It was neither a circular relating to private aided oriental colleges, nor was it a circular relating to promotion to the post of Principal in those colleges. The circular only stated that the staff of the closed college would be adjusted wherever there is work load. Such a provision by itself does not supersede G.O.Ms. No. 233 dated 20-10-1993, though it cannot be doubted that if the Government so wants, they can either modify or cancel G.O.Ms. No. 233 dated 20-10-1993. But since that has not been done we must hold G.O.Ms.No233, dated 20-10-1993 to be operative on its own force and as regulating the mode of filling up of the post of Principal in private aided oriental college. Consequently respondent No. 4 could not have been transferred as Principal to respondent No. 3 -College. Consequently the order of transfer in proceedings Rc. No. 270/PC.H-4/94 dated 10-3-1995 is quashed.

7. In the result, the writ appeal, as well as the writ petition are allowed with costs. Hearing fee Rs. 500/-.