
(2016) 08 AP CK 0011

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28298 of 2016

K. Bala Prasad

APPELLANT

Vs

Mahatma Gandhi Institute of Technology

RESPONDENT

Date of Decision : 30-08-2016

Acts Referred:

Citation : (2016) 5 ALT 792 : (2016) 6 AndhLD 233

Hon'ble Judges : Sri A. Ramalingeswara Rao, J.

Bench : Single Bench

Advocate : K. Lakshmi Narasimha, Advocate, for the Petitioner; M. Ravindranath Reddy, Advocate, for the Respondent No. 1; V. Ramchander Goud, SC for JNTU, for the Respondent No. 2; Government Pleader for Education, TG, for the Respondent No. 3; K. Ramakanth Reddy, A

Final Decision : Dismissed

Judgement

Sri A. Ramalingeswara Rao, J.—The petitioner was appointed as Assistant Professor in Electronics and Communication Engineering by proceedings dated 15.02.2008 of the 1st respondent. His basic pay was fixed at Rs.8,000/- in the Time Scale of Pay of Rs.8000-275-13500 and accordingly he joined the service. At the time of joining the service, All India Council for Technical Education (AICTE) Regulations of 2005 were in vogue. It provides for the post of lecturer with qualification of First Class Master's Degree in the appropriate branch of Engineering/Technology or First Class Bachelor's degree in the appropriate branch of Engineering/Technology or equivalent, valid GATE score, minimum 75 percentile to complete M.Tech/ME within 5 years, failing which the increments will be stopped until the postgraduate degree is earned. The institutions were directed to provide adequate opportunity to its teaching staff to complete the said requirement. At the time of his appointment in the year 2008, the petitioner was a graduate in Electronics and Communication Engineering. Thereafter, the AICTE Regulations 2010 came into force with effect from 05.03.2010. The petitioner was appointed as Assistant Professor on regular basis in the

department of ECE with B.Tech qualification and it was stated in the office order that as per the new guidelines of the AICTE, the minimum required qualification for the post of Assistant Professor is M.Tech with first class in the concerned subject and the petitioner was notified that the new scales of pay would be applicable to him subject to the condition that he should acquire M.Tech qualification within next five years from 01.09.2010, failing which his services would be terminated. The petitioner could not acquire M.Tech qualification within the said period of five years. However, before expiry of period of five years, the 1st respondent issued a notice on 11.08.2015 stating that the five years period stipulated would be expiring by 31.08.2015 and the petitioner was requested to produce the proof of acquisition of requisite qualification, failing which he would be reverted back to the Time Scale of Pay of Rs.8,000- 275-13,500 without any notional increments for the period from 01.09.2010 to 31.08.2015. In the absence of submission of proof of acquisition of required qualification, the 1st respondent passed another order dated 26.08.2015 placing the petitioner in the scale of pay of Rs.8000-275-13,500/-, but, however, extended time for acquisition of required qualification from 31.08.2015 to 31.08.2016. However, the 1st respondent on its own changed the decision with regard to application of pay by proceedings dated 21.12.2015 and restored the pay as existing in August 2015 by implementing it with effect from 01.12.2015 and the petitioner was advised to acquire the requisite qualification by 31.08.2016. When the affiliation for 2016-2017 was required by the 1st respondent, it uploaded the information relating to the faculty to the 2nd respondent and the 2nd respondent held that the petitioner was not qualified to hold the post of Assistant Professor. On the basis of the remarks of the 2nd respondent, the 1st respondent passed an order on 27.07.2016 terminating the services of the petitioner as Assistant Professor of ECE in the 1st respondent college with effect from 31.08.2016. Challenging the said order of termination, the present writ petition was filed.

2. Learned Counsel for the petitioner submits that the services of the petitioner should not have been terminated though he was not qualified to hold the post of Assistant Professor as his initial appointment was a lecturer in the pay scale of Rs.8000-275-13500 and in the case of un-qualified Assistant Professors, who were initially recruited as lecturers, their pay can be reduced, but their services cannot be terminated.

3. Learned Counsel appearing for the 1st respondent submits that as per the AICTE Regulations of 2010, ample opportunity was given to the petitioner to acquire the requisite qualification and in spite of the same, the petitioner did not acquire the requisite qualification and in those circumstances the 1st respondent is left with no alternative to terminate the services of the petitioner.

4. Learned Counsel for the petitioner in reply submits that the petitioner could have been continued as a lecturer though he is not qualified to continue as an Assistant Professor.

5. The Regulations of 2010 issued by the AICTE makes it clear that there are

only three designations in respect of teachers in Universities and Colleges, namely, Assistant Professors, Associate Professors and Professors. Though the petitioner was appointed in the year 2008 and called as Assistant Professor, the Regulations of 2005 enable the 1st respondent to appoint the persons who does not possesses the M.Tech degree, but, the institutions were asked to give an opportunity to the teaching staff to complete the said requirement. Accordingly, when the petitioner was appointed in the year 2010, as per the new Regulations of AICTE 2010, he was given an opportunity to acquire the requisite qualification within the stipulated period of five years, which was extended by one more year. Since the petitioner did not fulfil the required qualification, the 2nd respondent-University did not approve the continuance of the petitioner as Assistant Professor in the 1st respondent-college. The 1st respondent is left with no alternative to terminate the services of the petitioner. The submission of the learned Counsel for the petitioner that the petitioner shall be continued in the post of lecturer is misconceived. There is no post of lecturer as on today in any of the college affiliated to the University. Consequently, his further contention that the petitioner though did not acquire the requisite qualification should be put in a lower scale attached to the post of a lecturer is not tenable.

6. In the circumstances, the Writ Petition fails and is accordingly dismissed. No order as to costs.

7. In view of dismissal of the Writ Petition, the issue with regard to the maintainability of the Writ Petition as against the 1st respondent is not decided and is left open.

8. Miscellaneous petitions, if any, pending shall stand closed.