

(2002) 06 AP CK 0026

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13286 of 1993

K. Narasimha Reddy

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 12-06-2002

Acts Referred:

Citation : (2002) 6 ALD 327

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : M. Ratna Reddy, for the Appellant; Government Pleader for Higher Education for Respondent Nos. 1 and 2, Y. Krishna Reddy and K. Ramakanth Reddy, SC for Osmania University, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The petitioner is a Post Graduate in Science with specialisation in Electronics from the Osmania University. The 3rd respondent issued an advertisement dated 3-12-1984 published in the local newspaper on 7-12-1984 inviting applications for the post of Lecturers in Physics and Electronics. The petitioner submitted his application since he fulfilled the qualifications stipulated therefor.

2. The 3rd respondent, which is an Aided Private college, constituted a Selection Committee as required under G.O. Ms. No. 905 Education dated 21-9-1976. The petitioner was selected by the Selection Committee and accordingly the 3rd respondent issued orders dated 15-1-1985 appointing him as Lecturer in Electronics against the post of a regular vacancy. The petitioner joined the services of the 3rd respondent on 17-1-1985. The 4th respondent-University, to which the 3rd respondent college was affiliated, approved the appointment of the petitioner through proceedings dated 1-3-1985.

3. Inasmuch as the 3rd respondent was an aided college, the proposal for seeking approval of the appointment of the petitioner was forwarded to the 2nd

respondent. The proposal was rejected on the ground that the proposal for appointment of the petitioner was made after December, 1984. In that view of the matter, the 3rd respondent terminated the services of the petitioner through order dated 3-5-1986. The petitioner filed WP No. 16396/86 challenging the said order of termination. The writ petition was dismissed through orders dated 14-9-1987. The same was upheld in WA No. 1341/1988 on 31.8.1988.

4. On 14-9-1988, the 1st respondent issued G.O. Ms. No. 1319 Education, dated 14-9-1988 dealing with the approval of appointments made in certain Private Aided Colleges. The G.O., took note of the fact that it was proposed to fill all the vacancies in the colleges admitted to grant-in-aid by the candidates selected by the College Service Commission. The College Service Commission was constituted in October, 1985 and the appointments against such vacancies shall be made only through the medium of College Service Commission. In the meanwhile, certain appointments came to be made in accordance with the procedure contemplated under G.O. Ms. No. 905, dated 21-9-1976. It ultimately authorised the 2nd respondent to approve appointments/ promotions to the post of Lecturers made by the Private Aided Colleges between 24-12-1984 and 30-9-1985.

5. Since the appointment of the petitioner was within the period specified in this G.O., viz., 15-1-1985, he sought for the review of the order in the writ appeal. The Division Bench of this Court, through orders in Rev.WAMP.No. 2669/1988 in WA No. 1341/1988 dated 3-3-1989, directed that the order passed in writ appeal does not stand in the way of the Management of the Institution or the Director of Higher Education in considering the case of the petitioner herein for approval if his case is covered by G.O. Ms. No. 1319 Education, dated 14-9-1988. It was further observed that in case the case of the petitioner herein is covered by the said G.O. the order of termination will not stand in the way of the parties for grant of the relief.

6. The petitioner accordingly submitted an application to respondents 1 to 3. The 2nd. respondent passed orders dated 2-8-1993 rejecting the application of the petitioner stating that the post against which the petitioner was selected in 1985 was reserved for a Schedule Caste (SC) candidates and that the orders issued in G.O. Ms. No. 1319, dated 14-8-1988 are not applicable to the petitioner. The same is challenged in this writ petition.

7. One fact that needs to be taken into account is that after the 3rd respondent terminated the services of the petitioner, he joined in another institution by name New Science College in the year 1987 and his services were regularised in the said institution with effect from 7-7-2000.

8. Respondents 1 and 2 have filed a counter affidavit justifying the impugned proceedings. According to them, the post in question was reserved for "SC" category and it was wrongly advertised as belonging to "OC" category. It is contended that the question of approval under G.O. Ms. No. 1319, dated

14-9-1988 would arise only if the appointments "were made as per roster. According to them, since the appointment of the petitioner was in violation of the Rules of Reservation, the petitioner is not entitled to the benefit under the G.O. It is further contended that in view of the fact that the petitioner has since been employed in an aided college, he is not entitled for the relief claimed by him in this writ petition.

9. Heard the arguments of Sri M. Ratna Reddy, learned Counsel for the petitioner, Sri Y. Krishna Reddy, learned Government Pleader for Higher Education and Sri K. Ramakanth Reddy, Standing Counsel for Osmania University.

10. The various facts as to the date of appointment and subsequent events as evidenced by the proceedings referred to above are not in dispute. First it has to be seen as to whether the grounds stated by the 2nd respondent in the impugned order in rejecting the claim of the petitioner are sustainable.

11. Though three grounds are stated as reasons for rejection, in effect, all of them are facets of the same objection. The contention was that the post against which the petitioner was selected and appointed in the year 1985 was earmarked for the "SC" candidate. According to respondents 1 and 2, such an appointment was contrary to the Rules. Therefore, the petitioner is not entitled for the benefit of G.O. Ms. No. 1319 dated 14-9-1988.

12. It needs to be observed that it was not as if the petitioner was appointed on the basis of some nomination or informal selection. The post in question was duly advertised as required under the relevant provisions of law. In the advertisement, it was not stipulated that the post is earmarked for "SC" candidates. On the other hand, it was stated that it is available for "OC" candidates. The selection was undertaken by a Selection Committee constituted in accordance with the guidelines issued in G.O. Ms. No. 905, dated 21-9-1976. In the Selection Committee so constituted, the representatives of the Government and the University are present. The very purpose of having the representatives of the Government and the University is to ensure that the Rules of Reservations are properly followed and that there is proper appraisal of the merits of the candidates. No objection was raised by the Government representatives in the Selection Committee to the effect that the post was earmarked for "SC" candidates. The refusal to accord approval in the year 1985-86 by the 2nd respondent was not on the ground that the post was earmarked for "SC" candidates. Therefore, it is not open to respondents 1 and 2 to raise that plea after almost a decade. Even assuming that the post was earmarked for "SC" candidates, the petitioner cannot be penalised for the lapses on the part of respondents 1 to 3 in having advertised the post for "OC" candidates. Therefore, the grounds upon which respondents 1 and 2 have rejected the application of the petitioner through the impugned order are untenable and the same is accordingly set aside.

13. The learned Government Pleader for Higher Education submits that inasmuch

as the petitioner is no longer in service of the 3rd respondent and is now working in New Science College, where his services have been regularised, he is not entitled for the relief of approval of the appointment made in the year 1985 in the 3rd respondent institution. The petitioner had to search for alternative appointment on his having been terminated by the 3rd respondent in the year 1986, which in turn was on the basis of the refusal by respondents 1 and 2 to accord approval. If the petitioner was entitled in law for the relief, the subsequent events should not come in the way. The contention that, inasmuch as the services of the petitioner were already been regularised in another institution, grant of relief in this writ petition would result in double benefits, should also not be a reason to deprive the petitioner of his legitimate right.

14. It is not in dispute that respondents 1 and 2 have issued several G.Os., which contemplate the services rendered by a candidate in one or more aided institutions to be taken into account for the purpose of regularisation in another aided institution. The learned Government Pleader does not dispute this aspect. If respondents 1 and 2 are extending the benefit of the services rendered by candidates in different institutions, while regularising their services in certain institutions, extension of the benefit of regularisation to the petitioner should not at all pose a problem, nor does it violate any provisions of law. On the other hand, denial of the same would put a seal of approval for the injustice meted out to the petitioner at various stages.

15. Further, the Division Bench of this Court in Rev.WAMP.No. 2669/88 observed that the order of termination of the services of the petitioner shall not come in the way of extending the benefit of G.O. Ms. No. 1319, dated 14-9-1988 to the petitioner.

16. Having regard to the facts and circumstances of the case, the writ petition is allowed with the following directions:-

(a) The impugned proceedings No. Rc.2306/ PC III-1/90 dated 2-8-1993 issued by the 2nd respondent are set aside;

(b) The petitioner shall be entitled for the benefit of approval of appointment in the post of Lecturer in Electronics with effect from 17-1-1985, the date on which the petitioner joined the services of the 3rd respondent institution;

(c) The regularisation of services of the petitioner in New Science College by Government Memo. No. 25375/CE/ II -1/99-2 dated 7-7-2000 shall be with effect from 17-1-1985 and appropriate modified orders shall be issued by respondents 1 and 2;

(d) The petitioner shall not be entitled for any monetary benefits and the service with effect from 17-1-1985 shall enure to the benefit of the petitioner only for the purpose of pension and other related benefits;

(e) The petitioner shall not be entitled for any benefit of seniority in the New Science College on account of approval of his appointment from 17-1-1985;

(f) There shall be no order as to costs.