

(1995) 08 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No's. 20024 to 20029 of 1995 Etc

Nagaraju

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 23-08-1995

Acts Referred:

Citation : (1996) ILR (Kar) 442

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : V. Lakshminarayana, M. Shivaprakash, Ravivarma Kumar and D.S. Ramachandra Reddy, for the Appellant; Chidananda Ullal, Government Advocate, G. Gangi Reddy, Praveen Kumar Raikote, M. Narayanaswamy, Rama B. Naid, S.B. Mukkannappa, M. Aswanthararayana Reddy, P.K. Bhat and S.W. Arabatti, for the Respondent

Final Decision : Allowed

Judgement

Saldanha, J.—This group of Petitions raises one common issue in so far as all the petitioners though appointed in different institutions at different points of time, have an identical grievance. It is their case that despite their having the requisite qualifications and the fact that they are performing the job functions which are identical to those of a regularly appointed Lecturer, that they are being paid a fixed salary on the ground that it was an ad-hoc or stop-gap appointment. One does not need to go backwards into the history of each of these Cases because the various Courts including the Supreme Court had occasion to go into the question canvassed by the learned Government Advocate once again in this group of Cases namely that none of them have gone through the regular requisite prescribed procedure for appointment. I need to clarify that what is signified thereby is that the appointments have not been done after following the well settled norms that are prescribed and as a result thereof, that there is a possibility of opening some of these Cases to the charge that the recruitments at the instance of the private managements do not necessarily conform to the requirements as laid down by the State. This aspect of the matter would

normally create a handicap as far as the regularisation of such an appointment is concerned unless the scrutiny procedures were complied with and it is for this reason that even in the case of stop-gap appointment, that the concerned authorities have got to thereafter accord their sanction or approval. The Supreme Court in the Stop-gap Lecturers Case was conscious of this aspect of the matter but despite these circumstances, laid down certain guidelines on the basis of which regularisation was directed. The overriding considerations as appeared from that Judgment were that the Lecturers in question had been functioning for a relatively long period of time, namely, three years and that it was considered manifestly unjust in this background to either deprive them of the regular salary or of the security that is attached to that job. Under these circumstances, the direction was issued to regularise their services. The petitioners" before me contend that on the basis of the principles enunciated in that Decision that directions ought to be issued for purposes of regularising their services. One of the grounds on which the learned Government Advocate has opposed such a relief being granted is the fact that undoubtedly these were all adhoc appointments but that the three year qualifying Rule that applied in the Supreme Court Decision as on that date is not fulfilled by some of the petitioners, in answer to this, their learned Advocate has submitted that in a subsequent group of Petitions wherein orders were passed by the Supreme Court on 4.4.1994 in SLP Nos. 16442-53/90, the Supreme Court applied the principles and the directions that emerged from the earlier Decision of 1992. The petitioners learned Advocate submits that having regard to this position, that it would not be correct to disqualify those of the petitioners who may not have completed the three year qualifying period in the year 1992, because he contends that even as on the date of the Supreme Court Decision referred to by me, the petitioners have completed the qualifying period. Having regard to this position, it would be impossible to deny the reliefs that are claimed by the petitioners in so far as none of them can be held to be disqualified from the same.

2. I need to point out here that there is considerable substance in the subsidiary plea raised by the learned Government Advocate namely that there should be some end to the procedure of regularisation because having regard to the number of persons who are claiming it, the entire recruitment procedure has come to a total standstill and if one goes by the numbers, that as far as the reservations are concerned, that absolute havoc has been played in that field. There is much substance in his submission that there are certain well defined policies relating to recruitments and that as a result of the procedure of regularisation, a large number of innocent applicants are completely and totally debarred from employment in so far as the well defined formula now appears to be that irrespective of how one secures the employment, thereafter the modus operandi is clear, namely that the party moves the Court and tries to get the job regularised. It is necessary to put a full stop to this situation because even if there are instances where no malpractices are involved in the process of recruitment or appointment, it still does not pass the required test for the reason

that the requisite procedures have been bypassed and all eligible candidates have not been considered. The saddest part of the matter is that this disease has reached epidemic proportions in the education field and the tragic reflection of the matter is that even though the disease is more than one decade old, that no corrective steps have so far been taken. The State Authorities pleaded helplessness insofar as there is nothing that they can do except stop the reimbursement of the salaries and when this is done, it is the employees who go and obtain legal redress. This however is not the answer insofar as the Authorities are not powerless to frame the requisite Regulations whereby, the persons responsible for any breach or irregularity can and should be dealt with very severely even to the extent of being made personally accountable if adequate provisions are formulated and enforced rigorously, it would to some extent alleviate the situation but I need to observe here that the main cause for the state of affairs is the lethargy on the part of the Education Department at all levels, The number of teachers and other staff members required by Institutions must be assessed in advance. time bound directions must be issued and it is equally necessary that the Authorities do not paralyse the Institutions in the manner in which they are doing at present. The main reason why adhoc and stop-gap employees suffer is that the procedures prescribed are cumbersome, impractical, requiring sanctions which are never forthcoming and in the process, the only way to keep the Institutions running is by making stop-gap or adhoc employments. These are not fair to the employees which is why the Court has to step in and in order to alleviate the injustice done to the employees, direct regularisation. The present case is not different from any of those. It is therefore hoped that atleast at this late point of time the appropriate remedial measures will be taken.

3. As far as the present set of Cases is concerned, the Petitions are allowed with a direction that the respondents shall forthwith regularise the services of the petitioners with consequential benefits. Rule is accordingly made Absolute to this extent. No order as to costs.