
(1999) 08 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 5327 of 1991 and 9138 of 1996

P.A.V. Krishna Jeiar

APPELLANT

Vs

State of Andhra Pradesh, Education and Others

RESPONDENT

Date of Decision : 19-08-1999

Acts Referred:

Citation : (1999) 5 ALT 617

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : S. Sharath Kumar, for the Appellant; Vijaya Bhaskar Moola, S.C, for the Respondent

Final Decision : Dismissed

Judgement

B. Sudershan Reddy, J.—The writ petitioner, in the instant writ petition prays for issuance of an appropriate writ, particularly one in the nature of Writ of Mandamus declaring the date of his initial appointment as wholly arbitrary and highly illegal action of the respondents in not regularising his services from the date of his initial appointment as wholly arbitrary and highly illegal.

2. The petitioner was temporarily appointed on ad hoc basis by the third respondent as a Trained Graduate Teacher in Mathematics on a consolidated salary of Rs. 1200-00 per month by order dated 4-3-1991. The petitioner however, asserts that he has been selected on consideration of his merit and qualification. He asserts that he is fully qualified to hold the post in which now he is serving. Even according to him, he is appointed by the third respondent, though he is not the competent person. However, it is asserted that his appointment is deemed to have been ratified by the Secretary and competent authority, A.P. Residential Educational Institutions Society as his salary bills were passed and cheques were issued towards payment of monthly salary. It is under those circumstances, the petitioner filed the present writ petition seeking regularization.

3. It may be required to notice that the petitioner herein was appointed by the third respondent on 4-3-1991. Even on 11-4-1991, the petitioner herein filed W.P. No. 5327 of 1991 in this Court seeking a Writ of Mandamus directing the respondents for regularisation of his services in the vacancy of Trained Graduate Teacher in Mathematics. It is rather surprising to notice that in the affidavit filed in support of that writ petition, he did not even say as to on what date he was appointed as TGT on ad hoc basis. That writ petition appears to have been filed apprehending termination of his services. The petitioner obtained interim orders in the said writ petition, which is to the following effect:

"It is further ordered that if the work load permits status quo obtaining as on the date of this order in respect of the services of the petitioner in the first respondent institution shall be continued until further orders on this petition."

4. It is now clear that the writ petitioner is being continued in the service under the said interim order passed by this Court in W.P. No. 5327 of 1991.

5. In the instant writ petition the petitioner even does not disclose about his filing of W.P. No. 5327 of 1991. This writ petition is filed, as though he is claiming regularisation, as if he is continuously in service of the respondent-school even since 1991. It is a case of clear suppression of material facts and the writ petition is liable to be summarily rejected only on this account.

6. In the counter-affidavit, however, it is, inter alia stated that A.P. Residential Educational Institutions Society Service (Recruitment) Rules, 1972, confers the power of appointment on the Secretary of the Society and not on the Principal of the School. The post of TGT is Category III, and category 4 Clause 9 of Rule 4, provides qualification to hold the post of Trained Graduate Teacher which is as follows:

(a) B.A. or B.Sc. in the relevant subject (with 50% or more marks);

(b) B.Ed, or equivalent qualifications of a recognized University;

(c) Teaching experience of not less than three years in any recognised secondary school is desirable. If required number of candidates are not available this condition may be relaxed.

The record would disclose that the petitioner did not possess the requisite qualification as per the Rules to hold the post of TGT as he passed B.A. in third class. It is thus clear that the petitioner neither possessed the requisite qualification nor appointed by the competent authority. The appointment appears to be purely on ad hoc basis. The petitioner obviously continued under the interim directions of this Court obtained by him W.P.M.P. No. 6642 of 1991 in W.P. No. 5327 of 1991 on 11-4-1991. Since the petitioner has not been recruited and appointed by a competent authority and possessed the requisite qualifications, his service cannot be regularised. The petitioner is not entitled to any relief.

W.P. No. 5327 of 1991:

7. This writ petition is filed by the petitioner within two months from the date of his appointment seeking regularisation of his services. Obviously, his services could not be regularised in the year 1991, itself, within two months from the date of his appointment.

8. That apart, we have already noticed that the petitioner did not possess the required qualifications. He has not been appointed by the competent authority.

9. For all the aforesaid reasons, I do not find any merit in both the writ petitions and they are accordingly dismissed. No costs.