
(2002) 07 AP CK 0001

In the Andhra Pradesh High Court

Case No : Writ Petition No. 2088 of 1992

P.V.V. Subrahmanyam

APPELLANT

Vs

Registrar

RESPONDENT

Date of Decision : 02-07-2002

Acts Referred:

Citation : (2002) 07 AP CK 0001

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : V. Jogaiah Sarma, for the Appellant; T.S. Harinath, for the Respondent

Judgement

L. Narasimha Reddy, J.—Andhra University, the respondent herein, had issued an advertisement in the year 1986, inviting applications for selection of candidates to the post of Lecturers in Politics and Public Administration along with other posts. The petitioner is one of the applicants. The Selection Committee had selected two persons by name V.S.K.Harinath and D.Jacob Shastri for the post of Lecturer. However, the Selection Committee recommended that the petitioner may be appointed as a Teaching Assistant on a consolidated salary of Rs.500/-. It was on the basis of this recommendation that the University, through its proceedings dated 20-2-1989, appointed the petitioner as Teaching Assistant. on a consolidated salary of Rs.1,450/- per month, in the leave vacancy of Professor VSK Harinath. The petitioner contends that he has been working as Teaching Assistant against several leave vacancies ever since his date of appointment and that he is entitled to be regularised as Lecturer.

2. The contention of the respondent-University is that the Selection Committee did not select the petitioner to the post of Lecturer and he was appointed only as a Teaching Assistant against the leave vacancies that were arising from time to time and as such he is not entitled to be regularised as Lecturer.

3. Sri V.Venkat Rao, learned counsel for the petitioner, submits that the petitioner

appeared before the Selection Committee in response to the advertisement and was appointed as Teaching Assistant, on the basis of recommendations of the Selection Committee. It is also his contention that the petitioner was discharging the functions of a Lecturer. He ultimately submits that, inasmuch as the petitioner has undergone the process of selection and there is an existing vacancy of Lecturer, the petitioner is entitled to be regularised in that post.

4. Sri T.Rajender Prasad, learned Standing Counsel for the University, on the other hand, submits that the Rules prescribe that the appointment to the post of Lecturer should be on the basis of a selection. The question of regularising the petitioner against the post of Lecturer does not arise, since he has not been selected by a Selection Committee to the post of Lecturer.

5. The advertisement, in response to which the petitioner applied, was for the post of Lecturer. The Selection Committee, for its own reasons, did not include the petitioner in the panel of candidates for appointment to the post of Lecturer. Having selected two candidates for the post of Lecturer, it has recommended that the petitioner be appointed as a Teaching Assistant. It is not evident as to whether there exists any post with the designation of Teaching Assistant. At any rate, that post was not advertised. The recommendation made by the Selection Committee, as far as the petitioner is concerned, was beyond the scope of the function assigned to them. The cumulative effect of these factors is that the petitioner cannot be said to have been selected by a Selection Committee for the post of Lecturer.

6. The Hon'ble Supreme Court in several judgments ranging from *Hindustan Shipyard Ltd. and Others Vs. Dr. P. Sambasiva Rao and Dr. S. Prasada Rao*, to *Patna University and Another Vs. Dr. Amita Tiwari (Mrs.)*, held that where the Rules of a particular service stipulate that the appointment to the concerned post shall be on the basis of selection, no direction can be issued to regularise a person against such post, if he has not undergone the process of selection. In fact, the practice of regularising candidates against such vacancies was deprecated. As observed earlier, the Selection Committee did not select the petitioner. Mere existence of vacancies does not confer any right on any one to be appointed against the same. Therefore, the relief claimed by the petitioner cannot be granted.

7. However, the fact remains that the petitioner has been discharging his functions against the post of Lecturer for the past 13 years. Such a long and uninterrupted service of the petitioner cannot be permitted to go waste. There shall accordingly be a direction to the respondent-University to continue the petitioner in the present capacity as long as the need exists. As and when the respondent undertakes to select candidates for the post of Lecturer, the petitioner shall be entitled to apply for the same. The case of the petitioner shall be considered if he is otherwise eligible from the point of view of qualifications, etc. So far as the age is concerned, the petitioner shall be entitled to be given the benefit of relaxation of age to the extent of service rendered by him in the

University.

8. The writ petition is accordingly disposed of. No costs.