

(2000) 03 AP CK 0042

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18195 of 1999

S. Hymavathy and another

APPELLANT

Vs

D.N.R. College, Bhimavaram and others

RESPONDENT

Date of Decision : 10-03-2000

Acts Referred:

Citation : (2000) 3 ALD 570 : (2000) 2 ALT 302

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. M.L. Ali, for the Appellant; Mr. V. Venkataramana, for the Respondent

Judgement

1. Questioning the orders of second respondent-regional Joint Director of Higher Education, Rajahmundry, in Rc.No.1712-B1/98 date 27-5-1999 wherein the claim of the petitioners for admission into grant-in-aid posts of Record Assistants was negated by taking the stand that both the petitioners were working in the book stores, which is purely a business organisation registered with the Sales Tax Department and their salaries were paid out of the profits derived from the sale of books in the Stores, which has no relation or unconnected with the college establishment, this writ petition is filed.

2. From the facts of the case it is seen that while the first petitioner worked as an Attender in the office of the first respondent College from 30-10-1975 to 25-4-1983 and thereafter, she was posted to the Stores Department, the second petitioner continued to work in the Department till the book Stores was closed. Apprehending that the management is going to recommend their juniors for absorption into grant-in-aid post ignoring their claim by taking the stand that they were working in the Stores unconnected with the administration of the College, the petitioners filed WP No.5766 of 1996 on the file of this Court. My learned Brother, Justice G, Bikshapathy, having heard the arguments of both Counsels, disposed of the writ petition by order dated 4-2-1998 rejecting the contention of the management that the petitioners are not concerned with the

administration of the college in the following words:

"This contention holds no water as their appointments were made by the college authorities. Probably they are shifted to various sections in the College. Stores Section also forms part of the College. Therefore, they should be treated as if they are appointed by the College for the purpose of administration of the College".

3. Having taken the above view, a direction was given to the authorities to consider absorption of petitioners in the grant-in-aid posts of Record Assistant in the existing vacancies within a period of two months from the date of receipt of that order. This order was upheld in WA No.257 of 1998, which was disposed of on 20-3-1998 at the admission stage.

4. Thereafter, the second respondent passed the impugned order. First of all, neither the management nor the second respondent placed any material to show that Stores Department was not managed by the College. In fact, the petitioners were appointed under the orders of the Principal of the College. Further, Counsel for the petitioners contended that from the year 1976 to 25-4-1983, the first petitioner worked as Attender in the office of the College, which was not denied by the respondents. Likewise, Counsel for the petitioners placed proceedings of the Incharge Principal dated 27-11-1973 and it is useful to extract the same:

"In partial modification of the transfers made on 23-11-1973, the following changes are effected from today.

1. The transfer of K. Anjaneyulu to the book stores is cancelled and he is retained in the Evening courses.

2. Sri M. Satyanarayana Raju, B.Com., Typewriting Higher is posted to work in the Clerk-cum-Typist post in the Evening courses in place of Sri M. Venkatraju transferred to PG Courses.

3. Sri G. Krishna Murty, Attender now working in the Cash Section is transferred to Book Stores in place of Sri Y.S.N. Moorthy already transferred to college office.

All the above changes will come into effect immediately from this forenoon".

5. From the above, it is seen that the staff working in the college are being transferred from one department to another. In the proceedings dated 27-11-1973, Mr. K. Anjaneyulu working in the evening course seemed to have been transferred to the Book Stores and the present modification order is given retaining him in the evening course. Likewise, one G. Krishna Murty, Attender working in the Cash Section was transferred to Book Stores in place of Y.S.N. Moorthy, who was already transferred to college office. These proceedings coupled with the fact that the first petitioner worked in the office of the college from the year 1976 to 25-4-1983 clearly establish the fact that the Stores Section forms part of The college and the appointments, transfers and promotions are given treating the College as single unit. Further, it is not unusual for a college to have

Book Stores for the benefit of the students and in that direction, they are riot prevented from making any profit. As long as the Book Stores forms an integral part of the college and merely because the petitioners arc paid salary from out of the profits, they cannot be treated as if they have nothing to do with the affairs of the College. The other ground taken by the second respondent for rejecting the claim of the petitioners is that the Stores department is registered with the Sales-Tax Department. In the course of business, as the sales tax has to be paid, the management might have registered the Stores with the Sales-Tax Department Thus, the character of the Stores maintained by the College cannot be altered on the ground of registration of the same with the Sales-Tax Department. It is also not the case of the respondents that the College is not utilising the profits made out of the business from the Stores for the development of the College. The nucleus is provided by the College to run the Stores and the fact that the college itself utilised the profits from the sale of books clearly establishes that the Stores is one of the wings maintained by the College for the benefit of the students, who are studying in the College. For all these reasons, I have no option except to hold that the impugned order is the result of non-application of the mind to the facts of the case and vitiated by illegalities.

6. Accordingly, the order in Proc.Rc. No.1712-B1/98 dated 27-5-1999 is set aside and a direction is given to the respondents to treat the petitioners as members of the unaided non-teaching staff of D.N.R. College, Bhimavaram, and review the orders issued from time to time and to absorb them into grant-in-aid post as per their turn in the seniority, if necessary by reviewing the orders of absorption given to their juniors who are admitted to the grant-in-aid posts from time to time. The Regional Joint Director, Rajahmundry, is directed to pass orders within three months from the date of receipt of a copy of this order, if necessary by giving notice to the affected parties and giving opportunity to the parties to put forth their case in person. The writ petition is accordingly allowed. No costs.