
(1990) 09 AP CK 0015

In the Andhra Pradesh High Court

Case No : Writ Petition No. 610 of 1990

S. Vimala

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 05-09-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1991) 2 ALT 620

Hon'ble Judges : M.N. Rao, J

Bench : Single Bench

Advocate : K.V. Reddy, for the Appellant; Govt. Pleader, for the Respondent

Judgement

M.N. Rao, J.—The petitioner was employed as a part-time lecturer in political science in the 3rd respondent college on an hourly remuneration of Rs. 10/-. The Management invited applications to fill several vacancies of lecturers in several subjects including political science. The petitioner was interviewed on 15-6-1982. The selection committee drew up a list of four persons in the order of merit for appointment to the posts of lecturer in political science. The persons placed against serial Numbers 1 and 2 were appointed. The 3rd person was not interested. The petitioner's name was found at serial No. 4. The petitioner therefore could not secure appointment in the year 1982. Another vacancy had arisen on 6-8-1982, as a result of the death of one lecturer Sri Krishna Murthy. Again applications were invited in the year 1983. The selection committee as contemplated in G.O.No. 905 dt. 21-9-1976, was constituted. The committee after interviewing the applicants including the petitioner prepared a list of two names and the name of the petitioner was shown against S1. No. 2. It is the case of the petitioner that Smt. Lalitha, who was assigned rank No. 1 in the selection list was not interested in the post. The petitioner was subsequently appointed as a part-time lecturer on a temporary basis on 22-1-1986, for the period from 22-1-1986 to 25-2-1986. Thereafter, she was continued as part-time lecturer till her services were terminated on 30-1-1987. She filed WP No. 5660/

1988, in this court, seeking a writ of mandamus that the management should be directed to appoint her as a regular lecturer. That writ petition was disposed of by this court on 9th June, 1988 observing-

"If the Director of Higher Education finds that a particular teacher has been appointed after going through the process at selection by the duly constituted committee as per the G.O.No. 905, Education (V) department dated 21-9-76 and G.O. Ms. No. 1023 dt. 4-11-1976, he shall notify that fact to the concerned petitioner and the Management "so that these posts will be taken out of the purview of "Act No. 13 of 1985".

2. In this context it must be mentioned that Act 13 of 1985, contemplated constitution of a College Service Commission. As the constitution of College Service Commission did not materialise for a long time government it-sued G.O.No. 905 dl. 21-9-1976, as a step as a measure to facilitate the affiliated Colleges, whether Government or private, to make recruitment of teachers in accordance with the procedure, specified therein. The G.O. specifically lays down that teachers must be selected by a selection committee consisting of two representatives of the management, two professors or readers representing the University to which the college is affiliated and a representative of the Director of Higher Education. The presence of at least one representative of the University and a representative of Director of Higher Education in the Selection Committee should be regarded as essential for completing the quorum. The selected lecturers were to be paid salary in the scale of Rs. 530-30-770-35-1050 and such employment should not be for more than one academic year. Beyond that period no grant in aid shall be given for such posts."

3. A number of college teachers who have been appointed in accordance with the procedure contemplated in the said G.O. filed writ petitions in this court contending that it was unjust if they were asked to appear before the College Service Commission for regular appointments. These Writ Petitions were disposed of by P.A. Choudary, J. in W.P. No. 2699 of 1986, and batch, on 1-4-1981, viz., D.G. Krishnama Charyulu and Ors. v. Government of A.P. and Ors., 1988 (2) ALT 237 with a direction.

"6. In this batch of writ petitions the question which of the petitioners fall under what category has not been investigated, because the learned counsel for the petitioner had never advanced any arguments, relevant to the individual cases. He only attempted to advance that argument after dictating this order. Even otherwise, such an exercise would involve spending of a lot of time of this court. I would therefore, direct the petitioners to approach the Director of Higher Education for such a decision on individual cases. The Director of Higher Education will examine the claims if any made by each one of these petitioners in the light of this Judgment. Where he finds that a particular teacher has been appointed after going through the process of selection by the duly constituted Committee as per the above mentioned two G.Os. he shall notify that fact to the concerned petitioners and the management so that those posts will be taken out

of provision of Act 13 of 1985.

7. The Director of Higher Education shall dispose of the representations, if any, filed by the petitioners within two months from the date of their representation. The petitioners will file their representations within two weeks from the date of the receipt of this order."

4. It is not in dispute that the post in question was admitted to grant in aid on 1-6-1984, the management in their counter specifically admitted this fact. After 1-6-1984, it has to be as on whether the petitioner was continued in the College on the basis of selection made earlier by a duly constituted selection committee, as required by G.O. No. 905, dt. 21-9-1976. The appointment order by the management on 22-1-1986, appointing her as temporary lecturer, also refers to G.O. No. 905, dt. 21-9-1976, from which the conclusion follows that her continuance in the college was because of the selection made by the duly constituted selection committee. The proceedings issued by the College on 22-1-1986, in Roc. No. 54/11/85-86 read as follows :--

Sub:-- Private aided college--Be cent theosophical evening college, Madanapalle, temporary appointment of Kum. S. Vimala M.A., as Lecturer-trainee in political science-orders--Issued. Ref:-1. G.O. Ms. No. 905, Dt. 21-9-1976, 2. Minutes of the selection committee meeting held at 10. A.M. on 20-8-1985. 3. Earned leave application of Sri C.P. Krishna Murthy M.A. Lecturer in political science. In pursuance of the resolution of the selection committee meeting second cited above and consequent on the Earned leave applied by Sri C.P. Krishnamurthy, MA. lecturer in political Science, D.T. Evening College, Madanapalle, Kum. S. Vimala M.A. is temporarily appointed as Lecturer-Trainee in political Science in the scale of Rs. 700-40-1100-50-1300-50-1600 plus D.A. at A.P. Government rates in the leave vacancy of Sri C.P. Krishnamurthy, M.A. in D.T. Evening College, Madanapalle, for the period from 22-1-1986 to 26-2-1986.

Her appointment is subject to the approval of the Director of Higher Education A.P., Hyderabad, Sri Venkateswara University, Tirupati and subject to the service rules of the College.

Sd/-- Correspondent."

5. It is understandable why the management did not choose to fill up the vacancy which was admitted to grant in aid as far back as on 1-6-1984. The learned counsel for management says that the policy of the management was to reduce the strength and therefore they did not want to make any regular appointment, I am unable to accept this contention. The petitioner was continued till 31-3-1987, although on part-time basis and this fact self shows that there was need for appointment of a lecturer in political science against a post admitted to grant-in-aid. If there was no work load, the management would have in the normal course requested the Director, Higher Education to delete one post in political science from the approved list of the posts admitted to grant in-aid. That was not done and this is a clear indication that it was not (he intention of

the management to suppress the post, In D.C. Krishnamacharyulu's case (1 supra) it was held by P.A. Choudary J., that-

"I am of the opinion, that those teachers who have been selected following the procedure of selection should be treated as regularly filling the posts notwithstanding the facts that their appointments were described as temporary or adhoc on the assumption that the Jaganmohan Reddy Committee report should be made into law immediately. The assumption has been belied by the failure of the State to enact the College Service Commission Act till the year 1985. I, therefore, think it unjust to treat these posts as being vacant notwithstanding the fact that there have been substantial compliance with the existing law in the matter of their appointments."

The learned Government Pleader says that the College Service Commission is now going to take steps to fill up vacancies of lecturers in Degree Colleges, and that written test also was conducted in December, 1987 ; but no selection has so far been made. It is rather surprising to hear that though written test was conducted in 1987, the Government is unable to finalise the selections till now. Moreover, the situation in this case has to be judged with reference to the facts obtaining as on the date when the claim of the petitioner arose for absorption. In the circumstances the writ petition is disposed of with the following directions :

The 3rd and the 4th respondents shall immediately appoint the petitioner within two weeks from the date of receipt of a copy of this order as lecturer in Political Science and that post shall be taken out of the purview of Act 13 of 1989. The respondents 1 and 2 shall treat the post as a regular one occupied by the petitioner and not liable to be filled by the College Service Commission. The petitioner is not entitled to any back-wages. No costs. Advocate's fee Rs. 350/-.