
(2014) 06 AP CK 0166

In the Andhra Pradesh High Court

Case No : Writ Appeal Nos. 592 & 989 of 2014 and Writ Appeal (SR) No. 211505 of 2013

T. Eswarudu

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 03-06-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 3 ALD 221 : (2014) 6 ALT 338 : (2014) LabIC 3681 : (2015) 4 LLN 134

Hon'ble Judges : L.N. Reddy, J; Challa Kodanda Ram, J

Bench : Division Bench

Advocate : Sadu Rajeshwar Reddy, Advocate for the Appellant; A. Padma, SC for Intermediate Board, Advocate for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—These two appeals are filed by the same individual and they arise out of a common order, dated 27.11.2013, passed by a learned Single Judge of this Court in W.P. Nos. 21554 of 2001 and 11428 of 2003. The appellant was appointed as a Record Assistant in Dr. Lankapalli Bullayya Junior College, Visakhapatnam in the year 1984 on daily wage basis. Later on, he was appointed on regular basis on 01.11.1987. His post was admitted to grant-in-aid on 16.04.1990.

2. The appellant states that when he joined the service as Record Assistant, he just had the qualification of pass in X Class and after joining service, he acquired superior qualifications, such as Intermediate, Graduation and two Post Graduate Degrees, one in History and the other in Public Administration. He further states that a Junior Lecturer in the Department of History retired on attaining the age of superannuation and that on being asked by the management, he has been taking the classes in Intermediate course for the past several years.

3. The appellant made a representation, dated 23.08.1999, to the Correspondent

of the College with a request to absorb him against the Post of Junior Lecturer, admitted to grant-in-aid, in terms of G.O.Ms. No. 203, dated 18.06.1999. This was followed by another representation, dated 24.11.2000, to the Commissioner & Director of Intermediate Education. Complaining that the respondents have not taken any steps, the appellant filed W.P. No. 21554 of 2001. On realising that G.O.Ms. No. 203, dated 18.06.1999, provides for promotion of only School Assistants and Ministerial Staff up to the stage of Junior Assistants to the post of Junior Lecturer in any Junior College run by the private management; and that the post of Record Assistant is not covered under the G.O., the appellant filed W.P. No. 11428 of 2003 with a prayer to declare the G.O., in so far as it does not cover the post of Record Assistant as illegal, arbitrary and unconstitutional and for consequential directions. The appellant pleaded mostly the grounds of discrimination in not including the post of Record Assistant in G.O.Ms. No. 203, dated 18.06.1999.

4. After hearing both the parties before him at length, a learned Single Judge of this Court dismissed both the writ petitions. Hence, these two writ appeals.

5. Sri Sadu Rajeshwar Reddy, learned counsel for the appellant, submits that his client possessed requisite qualifications for being promoted to the post of Junior Lecturer and that there is no justification in restricting the avenues of promotion only up to the stage of Junior Assistant. He submits that the post of Record Assistant also ought to have been included in the G.O.

6. Learned Government Pleader for Higher Education, on the other hand, submits that W.P. No. 21554 of 2001 virtually became redundant with the filing of W.P. No. 11428 of 2003. So far as W.P. No. 11428 of 2003 is concerned, he submits that the appellant cannot insist that any particular category of post be included in the feeder category. He submits that it is for the appointing authority and the Government to take relevant factors into account and to stipulate the feeder categories. It is also urged that mere possession of educational qualifications does not entitle anyone to claim promotion.

7. It is not without the reason that the standards in the educational institutions, particularly in Government and aided institutions, have suffered a serious set back in the past one or two decades. Teaching posts, which are available abundantly in large number of educational institutions, have turned out to be the avenues of employment than of rendering service of imparting qualitative education.

8. The State of Andhra Pradesh framed a perfect system of recruitment of Teachers at various stages. The Andhra Pradesh College Service Commission Act was brought into existence providing for a perfect mechanism of appointment of Lecturers in private aided or unaided institutions. Through G.O.Ms. No. 119, dated 22.03.1991, the Selection Committee for recruitment of teaching staff in private Degree and Junior Colleges is constituted. In continuation of the same, G.O.Ms. No. 12, dated 10.01.1992, was issued prescribing the qualification for

the post of Lecturers in Degree and Junior Colleges. Parameters for selection were also stipulated.

9. It is in the year 1999 that the Executive faltered was purely driven by selfish and partisan ends. It virtually punctured and watered down the selection process without even referring to the source of power. A procedure was prescribed in G.O.Ms. No. 203, dated 18.06.1999, which provided for parallel method of recruitment sacrificing the stipulation as to the standards. It is so ridiculous that under the said G.O., the School Assistants, SGBT Assistants and even the non-teaching staff up to the level of Junior Assistants were made eligible for promotion to the post of Junior Lecturers in the institutions run by the same management. In a surreptitious manner, reference was made to G.O.Ms. No. 12, dated 10.01.1992, though the said G.O. does not provide for promotions at all. It is important to note that G.O.Ms. No. 119, dated 22.03.1991, was issued in exercise of power under the Andhra Pradesh College Service Commission Act as well as the provisions of the Andhra Pradesh Education Act. The origin of G.O.Ms. No. 12, dated 10.01.1992, in continuation of G.O.Ms. No. 119, dated 22.03.1991, is referable to those two enactments. G.O.Ms. No. 203, dated 18.06.1999, however, did not refer to any enactment as its basis.

10. The principal contention of the appellant is that, this Court in M. Thirupathi Reddy Vs. Government of Andhra Pradesh and others, , took the view that non-inclusion of the post of Attender in G.O.Ms. No. 203, dated 18.06.1999, is illegal and the petitioner therein was appointed as Lecturer vide G.O.Ms. No. 8, dated 02.02.2001. We have carefully gone through the judgment in M. Tirupathi Reddy's case. It is also important to mention that a Division Bench of this Court in W.A. No. 1291 of 2000 filed against the judgment of the learned Single Judge, dismissed the appeal, but observed that the judgment of the learned Single Judge cannot be treated as a precedent for other cases.

11. It is always for the appointing authority or for that matter, the Government to stipulate the qualifications for any post or to prescribe the method of appointment in the post. In case the Rules or the Regulations framed for this purpose are found to be violative of any provision of law, the Court can certainly interfere and set aside the same as and when a case is made out. However, by no stretch of imagination, this Court, even in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India can add some more categories. At the most, it can indicate that the competent authority may consider the feasibility of adding the so-called left over categories. Beyond that, it cannot undertake addition of the categories by itself. Such an exercise would amount to judicial legislation, which, time and again the Hon''ble Supreme Court has deprecated.

12. The petitioner in M. Tirupathi Reddy's case was an Attender. As in the instant case, he too acquired Post Graduation qualification. Alleging that he was not considered for promotion to the post of Junior Lecturer, he approached this Court. The sole basis for the learned Single Judge to allow the writ petition was

that the Government itself relaxed the relevant rule in favour of Sri Ganapathi Rao. We are not at all in agreement with such an approach. If there existed any provision for relaxation, the Court would certainly have driven the petitioner therein to approach the concerned authority. If, on the other hand, there is no provision for relaxation, an act of illegality ought not have been treated as precedent. G.O.Ms. No. 8, dated 02.02.2001, was issued by the Government appointing M. Tirupathi Rao as Junior Lecturer obviously on account of the fact that the Writ Appeal filed by them, was dismissed and there was a threat of contempt.

13. We have also gone through the judgment in W.A. No. 1291 of 2002, which arose out of the judgment in M. Tirupathi Rao's Case. No principle of law was discussed and simply after stating the facts, it was observed that the interpretation placed by the learned. Single Judge upon G.O.Ms. No. 203, dated 18.06.1999, shall not be taken as precedent. In other words, their Lordships did not treat the judgment in M. Tirupathi Rao's case as an authoritative pronouncement on the subject. Unfortunately, the adhocism adopted not only by the Executive but also by the Judiciary is leading to chaotic conditions in the institutions.

14. Another reason is that not only proliferation of fake and sub-standard Universities, but also introduction of the so-called correspondence courses, is becoming handy, even to a passer-by to obtain Post Graduate Degree, for the asking of it. The matter does not need further elaboration, if one takes into account the fact that one institution, which is being run in the State of Tamil Nadu, with built up space of few hundred square feet conducts examination throughout the Country for conferring Degrees in about 800 disciplines. The institution is not subjected to any unnecessary trouble of appointing Lecturers or imparting teaching. Examinations are conducted after completion of stipulated time and degrees are conferred. Many a time, executive directions and legal precedents have placed the holders of such degrees on par with the studious persons, who have followed strict instructions for the entire length of course and were conferred degree after thorough examination.

15. Even today, the persons holding Post Graduation Degrees are not able to frame two or three sentences, which are grammatically sound, in the language of their choice, on account of such factors. It is not difficult to imagine the future of the Country, where the pattern of education runs on those lines.

16. We do not find any basis to interfere with the common judgment of the learned single Judge.

17. The writ appeals are accordingly dismissed. There shall be no order as to costs.

18. The miscellaneous petitions filed in these appeals shall also stand disposed of.