

IN THE HIGH COURT OF ANDHRA PRADESH::AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT



THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 26480 OF 2021

Between:

A.B.V. Nageswara Rao, S/o Mallikarjuna Rao, Aged 47 years, Occ- School Assistant (Biology), S.T.V.N. Hindu High School, Pentapadu, R/o 11-32-13, Bhagyalakshmipeta, Tadepalligudem, West Godavari District.

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, School Department Secretariat Buildings, Velagapudi, Guntur District.
2. The Commissioner and Director of School Education, Government of Andhra Pradesh, Ibrahimpatnam, Vijayawada, Krishna District.
3. The Regional Joint Director, School Education Department, Kakinada Region, East Godavari District.
4. The District Educational Officer, West Godavari District, Eluru.

5. S.T.V.N. Hindu High School, Rep. by its Correspondent & Secretary,
Pentapadu, West Godavari District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to direct the respondents to regularize the services of the petitioner and absorb him into grant-in-aid post with effect from the date of availability of aided post and / or create aided post in view of availability of work load and further grant minimum time scale to him w.e.f. the availability of vacancy with all consequential benefits by holding the action of the respondents in not doing so and in issuing impugned Proceedings dated 15.02.2020 in rejecting the claim of the petitioner for absorption as bad, illegal, unfair, arbitrary, discriminatory and unconstitutional by issuance of Writ of Mandamus or issue any Writ, Order or Direction in the interest of justice.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to regularize the services of the petitioner in grant-in-aid post on similar lines as directed by the Government in several cases.

IA NO: 2 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased prayed that this Hon'ble Court may be pleased to direct the respondents to pay minimum time scale to the petitioner.

IA NO: 3 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned Proceedings dated 15.02.2020 issued by the 4th respondent in rejecting the claim of the petitioner for absorption into grant-in-aid pending disposal of the writ petition.

Counsel for the Petitioner: SRI J.SUDHEER

Counsel for the Respondent No.1 to 4: GP FOR SERVICES III

Counsel for the Respondent No.5: NONE

The Court made the following: ORDER



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
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[3310]

THURSDAY ,THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 26480/2021

Between:

A.b.v. Nageswara Rao,

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.J SUDHEER

Counsel for the Respondent(S):

1.GP FOR EDUCATION

2.GP FOR SERVICES III

The Court made the following:

ORDER

This petition is filed under Article 226 of the Constitution of India for the following relief:-

“...to direct the respondents to regularize the services of the petitioner and absorb him into grant-in-aid post with effect from the date of availability of aided post and / or create aided post in view of availability of work load and further grant minimum time scale to him w.e.f. the availability of vacancy with all consequential benefits by holding the action of the respondents in not doing so and in issuing impugned Proceedings dated 15.02.2020 in rejecting the claim of the petitioner for absorption as bad, illegal, unfair, arbitrary, discriminatory and unconstitutional by issuance of Writ of Mandamus or issue any Writ, Order or Direction in the interest of justice and pass such other order or orders....

2. The case of the petitioner in brief is that he was appointed as School Assistant in Biological Science by respondent no.5 School through proceedings dated 13.12.2005 as he is eligible to hold the said post. Since then, the petitioner is working in respondent no.5 school in grant-in-aid/unaided post till date without any break. While so, respondent no.5 recommended the list of the teaching and non-teaching staff, who are working in grant-in-aid posts as per G.O.Ms.No.40 dated 18.06.2013 for absorption. Basing on G.O.Ms.No.41 dated 30.06.2017, the petitioner submitted a representation dated 02.04.2018 to respondent no.4 for absorption into the grant-in-aid post. Thereafter, the Deputy Educational Officer, Tadepalligudem addressed a letter dated 28.08.2018 to respondent no.4 for necessary orders with regard to absorption of teaching and non-teaching staff into grant-in-aid vacancies by following the above said G.O. dated 30.06.2017. However, no further action was taken. Hence, the petitioner filed W.P.No.33043 of 2018

before this Court and the same was disposed of on 27.08.2019, directing the respondents therein to consider the representation dated 28.08.2018 made by the petitioner to District Educational Officer. Thereafter the petitioner made several representations dated 05.10.2019 and 21.10.2019, communicating the above said order. In spite of the same no orders were passed. Hence, he filed C.C.No.357 of 2020 and the same was dismissed on 22.03.2021 granting liberty to the petitioner to challenge the speaking orders passed by respondent no.4. Respondent no.4 passed speaking order dated 15.02.2020 stating that at this juncture as per rule 12 and 13 contained in G.O.Ms.No.1 dated 01.01.1994 and guidelines issued by respondent no.2 dated 20.07.2017, the appointment of the petitioner was not approved by the competent authority and is not working from 23.09.2002, and hence he is not eligible for absorption into aided post from un-aided post. This is illegal and discriminatory, while considering the very same claim of others. Hence, the present Writ Petition is field.

3. Heard Mr J.Sudheer, learned counsel for the petitioner and the learned Assistant Government Pleader appearing for the respondents.

4. On hearing, learned counsel for the petitioner submits that in the similar facts and circumstances of the case this Court considered the case of the petitioner for absorption into the grant-in-aid vacancies vide its order dated 22.08.2024 in Writ Petition No.7198 of 2021 and hence, requests this Court to pass similar order in this petition also.

5. Learned Assistant Government Pleader appearing for the respondents opposed for grant of any relief in the writ petition and prayed to dismiss the same.

6. In view of the submission made by both the learned counsels and upon perusing the entire material available on record, this Court deems fit to dispose of the present Writ Petition in terms of the said order.

7. Accordingly, the Writ Petition is disposed of directing the 2nd and 3rd respondents to consider the case of the petitioner for absorption into the grant-in-aid posts, if he found eligible. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

//TRUE COPY//

SD/- K. TATA RAO
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, School Department Secretariat, State of Andhra Pradesh, Buildings, Velagapudi, Guntur District.
2. The Commissioner and Director of School Education, Government of Andhra Pradesh, Ibrahimpatnam, Vijayawada, Krishna District.
3. The Regional Joint Director, School Education Department, Kakinada Region, East Godavari District.
4. The District Educational Officer, West Godavari District, Eluru.
5. S.T.V.N. Hindu High School, S.T.V.N. Hindu High School, Rep. by its Correspondent 85 Secretary, Pentapadu, West Godavari District.
6. One CC to SRI J.SUDHEER, Advocate [OPUC]
7. Two CCs to GP FOR SERVICES III, High Court of Andhra Pradesh. [OUT]
8. Two C.D Copies.

MBT

HIGH COURT

DATED:22/08/2024

ORDER

WP.No.26480 of 2021

**DISPOSING THE W.P
WITHOUT COSTS**

