

Directorate of Collegiate Education and Another

Vs

S. Seeni

Civil Appeal No. 4966 of 1994

(Sujata V. Manohar, D. P. Wadhwa JJ)

06.11.1997

ORDER

1. The respondent was employed as a Lecturer in Government Arts College, Chidambaram on contract basis during the academic year 1991-92. Under the terms of the contract the appointment was from the date of Joining to the last working day of the College for the academic year 1991-92. From 2-12-1991 the respondent was on leave allegedly on medical grounds. According to the respondent he rejoined on 10-12-1991 and again went on medical leave from 11-12-1991. The appellant terminated the services of the respondent on 20-12-1991 on the ground of his absenting himself from duty without prior permission. The respondent filed an application before the Tamil Nadu State Administrative Tribunal praying that the order of the Directorate of Collegiate of Education dated 20-12-1991 should be set aside and that the applicant should continue the respondent on contract basis till his regular absorption as in the case of other contract lecturers and for other reliefs.

2. The Tribunal by its impugned order has declined to set aside the order of termination on the ground that in any event by the time the applicant asked for any relief before the Tribunal the contract period had come to an end. The Tribunal, however, directed that if contract lecturers are being considered for regularisation the respondent should also be considered ignoring the fact that his services have been terminated for being absent without prior permission. The Tribunal has also directed relaxation of age. The Tribunal has also directed that if no action has been taken to appoint lecturers regularly, the respondent should be considered in the next academic year 1993-94 for appointment on contract basis subject to the decision in the pending criminal case. This pending criminal case against the respondent is as a result of a complaint filed by his second wife and the charges framed against the respondent are under Sections 420 and 498-A of the Indian Penal Code.

3. These directions given by the Tribunal are not warranted. On the question of regularisation, learned advocate for the respondent, has drawn our attention to GOMs issued by Education Department, Government of Tamil Nadu dated 26-3-1993 under which Directorate of Collegiate Education has been directed to furnish the full list of contract lecturers working in government colleges to the Teachers' Recruitment Board for conducting interview and for those candidates who are not M. Phil. or Ph.D. degree lecturers, to conduct the written test and interview. The order also mentions that accordingly, the Teachers' Recruitment Board, after written test and interview, has submitted a list of candidates arranged in the descending order of merit for taking an appropriate decision regarding their absorption. The Government has, therefore, passed an order that all the contract lecturers working in government colleges as on date be allowed to continue until further orders, and all the contract lecturers working as on date may be appointed on regular basis with effect from the date of issue of this order. Their ranking shall be made on the basis of the marks

obtained by them during the interview held by the Teachers' Recruitment Board but also after adopting the Rules of Reservation.

4. The respondent is seeking the benefit of this order. His claim for regularisation is based on such regularisation being granted to others. The respondent, however, was not working as a contract lecturer on 26-3-1993. Nor has he appeared for a written test and/or interview before the Teachers' Recruitment Board. He, however, wants the benefit of regularisation.

5. When the order of termination has been upheld and the respondent was not considered for subsequent renewal of contract in the next academic year because of his unauthorised absence during the previous academic year resulting in termination of his contract and because of pending criminal proceedings (which were started in November 1991) against him, the direction given by the Tribunal that he should be considered for appointment during 1992-93 as contract lecturer ignoring all these factors, is wholly unwarranted. Both these factors are directly relevant to the suitability of the respondent for appointment. Learned counsel for the appellant has drawn our attention to Rule 12 of the Tamil Nadu State and Subordinate Services Rules under which one of the requirements is that a person does not have more than one wife living. There is also a requirement that his character and antecedents should be such as would qualify him for service. The appellants are, therefore, entitled to consider these two factors in deciding whether to give a further contractual appointment to the respondent. The appellants have not given further contractual appointment to the respondent. The directions of the Tribunal, in this connection, are wholly unwarranted.

6. The Tribunal's directions that the respondent should be considered for regularisation is equally unjustified. Regularisation has to be done in accordance with a proper scheme framed in that connection by the authority concerned. The respondent does not qualify under the scheme of regularisation which is shown to us. The direction of the Tribunal that he should be considered as if in service as a contract lecturer, for the purpose of regularisation is without any justification. These directions, therefore, have no basis.

7. In the premises, the impugned order of the Tribunal giving directions for regularisation and in the alternative, for continuing the respondent on contract basis are set aside and the application of the respondent before the Tribunal is dismissed. The appeal is allowed accordingly.