

K. Devender Vs. Chief General Manager, (Edu)/Secretary, Singareni Collieries Educational Society and ors.

K. Devender Vs. Chief General Manager, (Edu)/Secretary, Singareni Collieries Educational Society and ors.

SooperKanoon Citation : sooperkanoon.com/437680

Court : Andhra Pradesh

Decided On : Jul-07-2008

Reported in : 2008(5)ALT555

Judge : L. Narasimha Reddy, J.

Appeal No. : Writ Petition No. 12492 of 2008

Appellant : K. Devender

Respondent : Chief General Manager, (Edu)/Secretary, Singareni Collieries Educational Society and ors.

Advocate for Def. : Nandigam Krishna Rao, Adv. for Respondent Nos. 1 to 3 and ;G.P. for Respondent Nos. 4 and 5

Advocate for Pet/Ap. : Santhapur Satyanarayana Rao, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

L. Narasimha Reddy, J.

1. The petitioner was initially appointed as a Secondary Grade Teacher by Singareni Collieries Educational Society in the year 1981 in a High School at Madaram. Thereafter, he was promoted as Trained Graduate Teacher on 15.04.1992 and worked in the High School of the Society at Kalyanikhani, Ramakrishnapur up to July 2001. From there, he was transferred to the High School at Yellandu. Out of several institutions being run by the society, seven are admitted to grant-in-aid. The services of the petitioner were regularized against an aided vacancy. The first respondent transferred the sixth respondent herein from an unaided Upper Primary School to an aided High School at Yellandu. The petitioner feels aggrieved by the same.

2. The petitioner contends that the sixth respondent, who is an unaided teacher, cannot be transferred to an aided institution, much less he can be made as an in-charge Head Master of the institution. Placing reliance upon the instructions issued by the Government from time to time, he contends that the aided teachers take precedence over unaided teachers.

3. Respondents 1 to 3 filed a counter-affidavit stating inter alia that the petitioner cannot claim seniority over the sixth respondent. According to them, in the combined seniority list of the Trained Graduate Assistants and Pandits qualified for the post of Head Masters in the institutions, the petitioner figures at Serial No. 48 in the list of 96, whereas the sixth respondent has already been promoted as Head Master by virtue of his superior place in the seniority list. It is submitted that for better administration of the schools, teachers whether unaided or aided are being transferred from one institution to another and the petitioner himself was transferred in such a manner. It is also stated that within the aided teachers also, there are several persons who are senior to the petitioner.

Heard Sri S. Satyanarayana Rao, the learned Counsel for the petitioner, Sri Nandigam Krishna Rao, the learned Counsel for respondents 1 to 3 and the learned Government Pleader for Higher Education for respondents 4 and 5.

4. The society had established several institutions, for the benefit of its employees at the mine sites, and other places. Out of 13 schools established by it, 7 are admitted to grant-in-aid. Even within the aided schools, several teachers were

appointed by the society on account of the ban imposed by the Government from time to time upon filling the aided vacancies. It is a matter of record that the teachers and non-teaching staff were being transferred from one institution to other, aided or not, depending on the administrative convenience. The petitioner himself was initially working against an unaided vacancy and after being admitted to grant-in-aid, he was transferred from one institution to another.

5. With this background, it is difficult to treat any one teacher as senior to another, in the context of a particular school since it is not the unit of appointment. Obviously for this reason, respondents 1 to 3 prepared a combined seniority list of different categories of teachers in all their schools. They did not maintain any distinction between aided and unaided teachers in this regard. For all practical purposes, the distinction between these two categories of teachers becomes relevant only in the context of payment of salary. For other purposes, be it for reckoning seniority or appointing the Heads of the institutions, the fact that a teacher is working against an aided vacancy or others becomes irrelevant, particularly where the same educational society established several institutions.

6. The comparative particulars of the petitioner on the one hand and the sixth respondent on the other, reveal that the latter is far senior to the petitioner. Simply because he was heading an unaided Upper Primary School, he is not disentitled to be transferred to the High School where the petitioner is working.

7. The learned Counsel for the petitioner places reliance upon a recent memo, dated 13.02.2008, issued by the Government, which prohibits transfer of an aided teacher from one institution to another being run by the same society. If at all anything, the said memo militates against the petitioner. The reason is that he was transferred from the High School at Ramakrishnapur to an Institution at Yellandu, and it becomes untenable. At any rate, the transfer of the sixth respondent is from one institution to another established by the society is not hit by the memo, since he is an unaided teacher. His being designated as Head Master, is only in-charge in nature. The actual controversy can be examined as and when the post of Head Master is filled on regular basis.

8. Therefore, the writ petition is dismissed. There shall be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com