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Court : Rajasthan

Decided On : Jan-13-1993

Reported in : 1993WLN(UC)18

Judge : A.K. Mathur, J.

Appeal No. : S.B. Civil Writ Petition No. 1817 of 1981

Appellant : Bholuram

Respondent : The State of Rajasthan

Disposition : Petition allowed

Judgement :

A.K. Mathur, J.

1. Petitioner by this writ petition has prayed that the notice of termination dated 6th December 1981 (Anx. 2) of the services of the petitioner may be quashed and respondent College in turn may be directed not to effect the termination of the services of the petitioner. It is also prayed that the Director College Education be restrained from insisting upon the termination of the services of the petitioner by resorting to the mechanism of denying grant-in-aid to the said college against the post of the petitioner.

2. The post of the Lecturer in Physics was advertised by the respondent Bhupal Noble College. Petitioner applied for the same and he was selected by the selection Committee which included the representative of the University of Udaipur. In pursuance of this selection, petitioner was appointed as a lecturer in Physics by the order dated 26th November 1969, copy thereof has been placed on the record as Anx. 1. It is alleged that the petitioner was also confirmed on the post in the year 1971. By notice dated 6th August 1981 petitioner was informed that after 3 months his services shall be terminated i.e. on completion of 3 months i.e. with effect from 5th November, 1981. As per the direction of the Director College Education Rajasthan Jaipur vide his communication dated 31st July 1981, that on account of the reduction in the work load, therefore, Government declined to grant the grant-in-aid against the post of the petitioner. Therefore, the aforesaid notice was served by the respondent No. 4 Bhupal Noble College to the petitioner. It is submitted that Bhupal Noble College Udaipur is affiliated to the University of Udaipur and according to Section 3(3) of the Udaipur University Act 1962 all the colleges situated in the limits of Municipal limits of Udaipur shall be affiliated with the Udaipur University and entitled to the privileges of University provided they are eligible for same in accordance with the condition laid down in the statute. It is submitted that as Bhupal Noble College, Udaipur is creature of the University of Udaipur and it has to abide by the norms laid down by University. The work load of teachers of the University of Udaipur has been determined and according to that the lecturers have to take 21 periods in one week. Therefore, it is submitted that according to the requirement of the College the incumbent is required to take 21 periods and if the work load is assessed on that basis then there is no need to effect the retrenchment of lecturers on account of reduction of the grant in aid by the Government. According to the norms of the Government of Rajasthan practical period has to be treated as 2/3 of theory paper whereas University of Udaipur has treated one period of theory. It is submitted that in Inspection Report by computing practical period as 2/3 of theory period the work load has been worked out which is not correct. In these circumstances, it has been submitted that the service condition of the duly selected candidate should not be made to fluctuate at the mercy of the increase and decrease of the students in the Colleges that will result into a very anomalous position and on account of some lean admission in a

particular academic session. The service conditions of the teachers should not be made dependent on variation of strength of students in the College. As in the next year the strength may increase and it may warrant increase in the strength of the teaching staff of the College. It is submitted that this will create a very difficult situation for the teaching staff and the service condition of teaching staff cannot be allowed to suffer on this count.

3. Reply has been filed by the respondent State well as by the Bhupal Noble College Udaipur is concerned that they are terminating the services of the incumbent on account of the reduction of grant in aid by the Government of Rajasthan against the post of petitioner. The State of Rajasthan has taken the position that according to the norms for the work load in the Government of Rajasthan a teacher is required to take 24 periods per week. Therefore, according to the norms fixed by Government of Rajasthan in Physics Department lecturers were more than the requirement. As such the Government of Rajasthan refused to grant the grant-in-aid against three posts in Physics. It is submitted that the Bhupal Noble College is a private college affiliated with the University of Udaipur but the grant in aid is being given by the Government of Rajasthan, therefore, it is not necessary for the affiliated college to follow the same norms as laid down for the teachers in the Udaipur University. However, subsequently, as the strength increased, the two teachers whose services were also terminated along with the petitioner were allowed to continue and consequently these two teachers namely, Rajendrasingh and Gyansingh who also filed writ petitions before this Court were absorbed and their writ petitions were dismissed being infructuous. Subsequently, it has also been brought on record that the work load which was 102 periods in the academic session 1981-82 increased to 130 periods in the academic session 1982-83 and then again it increased to 140 during 1983-84 and ultimately during 1987-88 it increased to 161 periods.

4. I have heard both the learned Counsel and perused the record.

5. One of the very hard feature in the present case is that the incumbent was regularly selected and appointed on 26th November 1969 as lecturer in Physics. His services were terminated in 1981 on account of the reduction in the work load.

It is true that the Government of Rajasthan pays the grant-in-aid to the private colleges but at the same-time it is harsh that a person who is selected in 1969 and serving in the Government aided college, his services are sought to be terminated in 1981 after putting in 12 years of service. This gives rise to a very anomalous position for an incumbent as at the time of entering into the service he did not visualise that his services could be terminated on such a fortuitous circumstance that in the event of reduction in the strength of the service, his services may be terminated. More so, the incumbent has continuously served the institution till this date and he had already put in 23 years of service and for this distance of time to say that in 1981 since there was insufficient work-load, therefore, his services may be terminated will amount to grave injustice. Moreso, it is very difficult to understand that if the service condition of the teacher is made to depend on the work load which is fluctuating then there will be no job security for teaching staff in the University or Government colleges or grant aided colleges. Today in the present case, it is after 12 years that his services were terminated and tomorrow it might be after 20 years leaving the person high and dry in a country like of ours where the jobs are very scarce. Therefore, instead of going into the technicalities of the case, I deem it just and proper to direct that due to an increase in the strength of the students in the colleges now the Government may create an extra post even on exgratia basis to allow this person to continue who is teaching in the college for the last 23 years (as he is working on account of stay order of this court). In the facts and circumstances of the case, I quash the order Anx. 2 dated 6th August, 1981 and direct the Government of Rajasthan to issue a grant-in-aid against the post of the petitioner so as to enable him to continue in service.

6. The writ petition is allowed. No order as to costs.