

IN THE ANDHRA PRADESH ADMINISTRATIVE TRIBUNAL :: AT HYDERABAD
FRIDAY, THE TWENTY NINETH DAY OF JANUARY
TWO THOUSAND AND TEN

:PRESENT:

THE HON'BLE JUSTICE DR.G.YETHIRAJULU, CHAIRMAN
(Constituting as a Bench U/s 5(6) of the Administrative Tribunals Act,1985)

O.A.No. 7613/2005, O.A.NO. 7776/2005, O.A.NO. 7906/2005,

O.A.NO. 7423/2005, O.A.NO. 7448/2005 AND 7497/2005

O.A.NO. 7613/2005

BETWEEN:

B.Sunitha D/o. B.Chakriyanaik,
Gr.II. Hindi Pandit,
M.P.U.P. School, Niranjan Nagar Colony,
Kadapa.

....Applicant

(BY MR. P. SAINATH . , ADVOCATE)

AND

1. The District Educational Officer,
Kadapa, Kadapa District.
2. The Commissioner and Director of School Education,
A.P., Hyderabad.
3. The Secretary to Government of A.P.,
Education Department, Secretariat, Hyderabad.

..Respondents

(BY MR. GODI BABJI, GP FOR EDUCATION .)

Application filed under section 19 of the Administrative Tribunal Act, 1985 praying this Tribunal to declare that the applicant is entitled to continue at M.P.U.P.S. Niranjana Nagar Colony, Cuddapah having been already absorbed into regular time scale of pay in her post from 1-4-2005/7-5-2005 as the case may be quashing the impugned G.O.Ms.No. 130 dt. 26-13-2005 r/w Proc.Rc.No. 1676/D3.4/2005 dt. 2.11.2005 issued by the 2nd Respondent in so far as the applicant is concerned as null and void, by holding the action of the Respondent in disturbing the applicant from her present place in the ensuing counselling of Special Vidya Volunteer Teacher is contrary to transfer rules issued in G.O.Ms.No. 102 dt. 5.8.2005 and also illegal, arbitrary, and discriminatory .



4) The Respondents are at liberty to extend regular scale of pay to those candidates, who have completed training and who got qualified from the respective dates subsequent to G.O.Ms.No.130, Education Department, dated 26.10.2005.

5) The counselling for posting the candidates, who have completed their training and if there is no regular vacancy at the place in which they are presently working may be conducted as per the guidelines in force.

6) In view of the status quo order granted by the Tribunal, the candidates, who have been extended regular pay scale and working in the places where there is a *vacancy*, such candidates shall not be disturbed till they complete the period as per the transfer guidelines in force.

WITNESS THE HON'BLE JUSTICE DR.G.YETHIRAJULU, CHAIRMAN,
A.P.ADMINISTRATIVE TRIBUNAL AT HYDERABAD.

Sd/- M.V.CHALAPATHI RAO,
REGISTRAR

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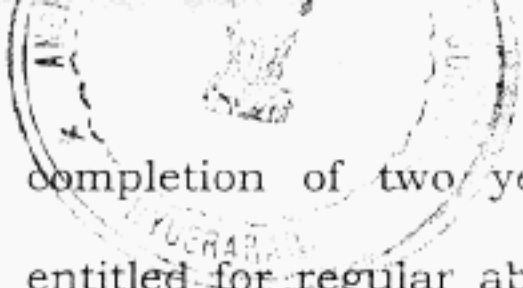
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ASSISTANT REGISTRAR

unconstitutional as persons who have already completed their training course and who have been extended the benefit of regular time scale of pay are likely to be affected and so much prejudice will be caused to them. In the proceedings, dated 2.11.2005 issued by the Director of School Education, A.P. Hyderabad the words 'prospective effect' mentioned in Para-3 shall also be deleted. By virtue of the status quo order granted by this Tribunal, the Respondents cannot proceed with the counselling as mentioned in G.O.Ms.No.130 and Proceedings, dated 2.11.2005. They are now at liberty to take appropriate steps for appointing the applicant and others as regular Teachers and they are at liberty to issue posting orders as per the guidelines in force.

11) In the result, the O As, are allowed in part with the following directions:-

- 1) The words 'prospective effect' mentioned in Para-4 of G.O.Ms.No.130, Education (Ser.V) Department, dated 26.10.2005 are struck down as unconstitutional;
- 2) The words 'prospective effect' mentioned in Para-3 of Proceedings in Rc.No.1676/D3.4/2005, dated 2-11-2005 issued by the Director of School Education, A.P. Hyderabad are also struck down as unconstitutional;
- 3) The Respondents are directed to issue appointment orders with effect from the dates on which the candidates have completed their training and qualified themselves for the respective posts;





completion of two years apprenticeship, they are eligible and entitled for regular absorption with time scale of pay attached to the posts of S.G. Teacher/Gr.II Pandit from the date of acquiring the requisite training qualification i.e. from 1.4.2005/7.5.2005 as the case may be. The earlier Orders issued by the Government clearly indicates that the Special Vidya Volunteers are entitled for regular scale of pay with effect from the date of completion of training. Accordingly in many Districts regular scale of pay has been extended to those candidates, who completed training by acquiring the requisite qualification. When once the benefit is extended and being enjoyed by the respective candidates, it is not just on the part of the Government to issue G.O.Ms.No.130, Education Department, dated 26.10.2005 by saying that the candidates who have completed the training are entitled for regular scale of pay from the date of the G.O. G.O.Ms.No.130 is not applicable to those candidates, who have already completed the training and who have been extended the time scale of pay earlier to the date of issue of G.O.Ms.No.130 and it is applicable to those candidates who have not completed the training as on the date of the said G.O. and who have not been extended the time scale of pay. The applicant are asserting that they completed the training prior to the issue of G.O.Ms.No.130 and they were extended the benefit of time scale of pay, therefore, G.O.Ms.No.130 is not applicable to the applicant. Hence, the word 'prospective effect' incorporated in Para-4 of G.O.Ms.No.130, Education (Ser.V) Department, dated 26.10.2005 is liable to be struck down as

Between.

1. J.VANITHA D/o Chinnabbi, aged about 23 years,
S.G.Teacher, Primary School, Vadderangapuram,
Aswaraopet Mandal, Khammam District.
2. S.AMALA D/o Lingaiah, aged about 29 years,
S.G.Teacher, Primary School, Tirumalakunta Colony,
Aswaraopet Mandal, Khammam District.
3. K.RADHA D/o Bhushaiah, aged about 30 years,
S.G.Teacher, C.U.P.School, Guttagudem,
Mulakalapalli Mandal, Khammam District.
4. B.HARI BABU S/o Hanmanthu, aged about 24 years,
S.G.Teacher, Primary School, Rajivnagar Colony,
Mulakalapalli Mandal, Khammam District.
5. B.VEERANNA S/o Balu, aged about 26 years,
Hindi Pandit, U.P.School, Kistaram, Tekulapally Mandal,
Khammam District.
6. B.LAKSHMAN S/o Gutya, aged about 22 years,
S.G.Teacher, M.P.P.S. Gangaram, Tekulapally Mandal,
Khammam District.
7. B.HANUMA S/o Vasram, aged about 31 years,
Hindi Pandit Gr.II, U.P.School, Ontigudese,
Enkoor Mandal, Khammam Dist.
8. S.VEERAMMA D/o Surappa, aged about 24 years,
S.G.Teacher, M.P.U.P.School, Reddygudem,
Aswaraopet Mandal, Khammam District.
9. U.NAGESWARA RAO S/o Ramulu, aged about 26 years,
Gr.II Hindi Pandit, U.P.School, Naaramvarigudem,
Aswaropet Mandal, Khammam Dist.
10. P.VEERAJAH S/o Nagaiah, aged about 23 years,
S.G.Teacher, Primary School, Guntumadugu,
Aswaropet Mandal, Khammam Dist.

(BY MR. CH. JAGANNATHA RAO, ADVOCATE)

...APPLICANTS

AND

1. The District Educational Officer, Khammam District.
2. The Commissioner and Director of School Education,
Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, rep., by its
Secretary, Education Dept., Secretariat, Hyderabad.

RESPONDENTS.

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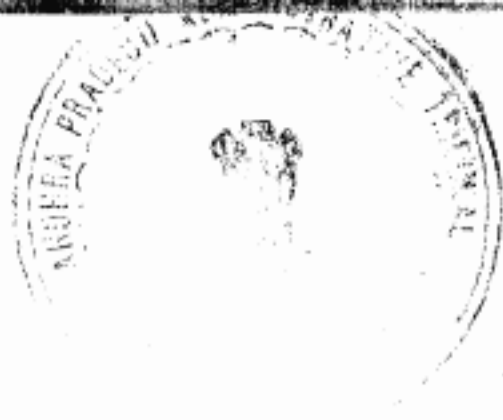
O.A No.7613 of 2005, O.A.No.7776/2005, O.A.No.7906/2005,
O.A.No.7423/2005, O.A.No.7448/2005 and 7497/2005:

(ORDER AS PER HON'BLE DR.JUSTICE G.YETHIRAJULU,
CHAIRMAN)

These Applications have been filed by the applicants seeking to declare that the applicants are entitled to continue in their respective places having been regularly absorbed already absorbed into regular time scale of pay in their respective posts from 1.4.2005/7.5.2005 as the case may be by quashing G.O.Ms.No.130, Education (Ser.V) Department, dated 26-10-2005 read with Proceedings, dated 2-11-2005 issued by the Commissioner & Director of School Education, Hyderabad by holding that the action of the Respondents in disturbing the applicants from their respective present places in the ensuing counselling of Special Vidya Volunteer Teachers is illegal, arbitrary and contrary to the transfer Rules issued in G.O.Ms.No.102, dated 5.8.2005.

2) Since these Applications have been filed for common relief, they are clubbed and this common Order is delivered.

3) The applicants are contending that in pursuance of Notification issued by the Commissioner & Director of School Education, the applicants participated in the selection process as untrained candidates in D.S.C.2002. With a view to fill up the posts meant for SC/ST/BCs., and physically handicapped candidates, which are unfilled since so many years due to dearth of candidates, the Respondents conducted DSC 2002 for untrained



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Application filed under section 19 of the Administrative Tribunal Act, 1985 praying this Tribunal to declare that the applicants are entitled to continue in their respective places having been already absorbed into regular time scale of pay in their respective posts from 1-4-2005/7-5-2005 as the case may be quashing the impugned G.O.Ms.No. 130 Edn., dt. 26-10-2005 R/w Prog.Rc.No. 1676/D3-4/2005 dt. 2.11.2005 issued by the 2nd Respondent in so far as the applicants are concerned as null and void, by holding the action of the Respondents in disturbing the applicants from their respective present places in the ensuing counselling of Special Vidya Volunteer Teachers is contrary to transfer rules issued in G.O.Ms.No. 102 dt. 5.8.2005 and also illegal, arbitrary, and discriminatory .

These Original Applications Nos. 7613/05, 7776/05, 7906/05 having come up for hearing on 11-09-2009, O.A.Nos. 7423/05, 7448/05 having come up for hearing on 07-09-2009 and O.A.No. 7497/05 having come up for hearing on 08-09-2009 and having stood over for consideration till this day, the Tribunal made the following:

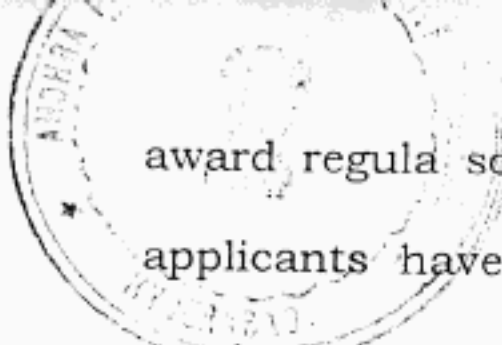
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Volunteers during the second year starting from April, 2004. It was mentioned in the said G.O, that the training period of Special Vidya Volunteers will be construed as apprenticeship period and regular scales shall be paid as soon the candidates successfully complete the training programme. The Government issued G.O.Ms.No.130, Education (Ser.V) Department, dated 26-10-2005 permitting the Director of School Education to appoint the candidates selected by DSC and appointed as Special Vidya Volunteers as Teachers on regular scale of pay since they have completed the training and thus qualified for appointment as Teachers, with prospective effect from the date of issue of the orders by relaxing the need for selection through DSC 2002 as they were already selected in DSC 2002 in the posts. The Director of School Education, A.P. Hyderabad issued Proceedings, dated 2.11.2005 informing the District Educational Officers in the State that the untrained candidates who were selected in DSC 2002 and engaged as Special Vidya Volunteers and have passed the training qualification and become eligible should be appointed as regular teachers in the time scale of pay attached to the post with effect from 26.10.2005 i.e. the date of issue of G.O.Ms.No.130. The District Educational Officers are instructed that the appointment orders to the Special Vidya Volunteers should be given through counselling as per the guidelines already issued in respect of the candidates of DSC 2003.

10) It is the contention of the applicants that as they were appointed as S.G. Teachers/Gr.II Pandits after training, they are no more Special Vidya Volunteers. It is also their contention that after



award regular scale from the date of issue of the G.O. As the applicants have not put in more than 8 years of service in a particular station, the transfer rules issued in G.O.Ms.No.102, dated 5.8.2005 are not applicable to the applicants. It is clearly specified in G.O.Ms.No.14, Education Department, dated 24.2.2003 that regular appointments will be made only after acquiring requisite training qualification. Therefore, the applicants will be considered as regular Teachers only after completion of training and accordingly orders were issued in G.O.Ms.No.130, Education Department, dated 26.10.2005 for giving them regular posting and by making counselling. Therefore, requested to dismiss the Applications.

8) In the light of the contentions raised by both parties, the point for consideration is whether the applicant is entitled for the relief as prayed for?

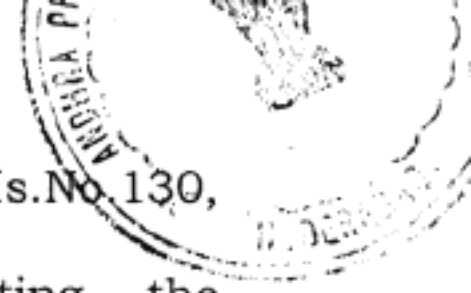
9) In G.O.Ms.No.14, Education Department, dated 24.2.2003, the Government permitted the Commissioner & Director of School Education to engage the selected (untrained) candidates of DSC 2002 as Special Vidya Volunteers and enroll them in a Special Training Programme commencing from March, 2003. It was mentioned in the said G.O, that the entire training programme shall be spread over to two academic years and that they shall be paid monthly stipend of Rs.1,000/-. The Government issued G.O.Rt.No.748, School Education Department, dated 27.8.2004 enhancing the stipend from Rs.1000/- to Rs.1500/- per month to the selected (untrained) candidates of DSC 2002 engaged as Vidya

course work as may be prescribed for becoming eligible to be appointed as Teachers. In Proceedings, dated 24.2.2003, the Commissioner and Director of School Education issued guidelines for allotment of Special Vidya Volunteers to Mandals and Gram Panchayats. In Proceedings, dated 23.6.2003, the Commissioner and Director of School Education directed to issue posting orders to the Special Vidya Volunteers allotted to the schools through online counselling. Thereafter candidates were allotted to their respective Mandals and Gram Panchayats to take up the project work. After completion of project work all the candidates were appointed as Special Vidya Volunteers and allotted to schools against the sanctioned vacancies of S.G. Teachers/Gr.II Pandits/P.E.Ts, etc., as per proceedings issued by the concerned District Educational Officers. In Memo, dated 24.2.2003 the Government ordered that the period of training of the selected untrained candidates of DSC 2002 as Special Vidya Volunteers shall be extended from 9 months to 12 months in each academic year and they shall be paid a monthly stipend of Rs.1000/- for the said period. Subsequently in G.O.Rt.No.748, dated 27-8-2004 the Government ordered that the selected (untrained) candidates of DSC 2002 engaged as Special Vidya Volunteers shall be paid a stipend of Rs.1500/- per month in the second year starting from April, 2004 without any break. Accordingly stipend of Rs.1500/- per month was paid to the candidates in the second year. In G.O.Ms.No.130, dated 26.10.2005 the Government issued instructions to conduct counselling to Special Vidya Volunteers, allot places to them and



counselling of Special Vidya Volunteers with a view to transfer the applicants from the present places to some other places in the ensuing transfer counselling which is highly illegal and unjust. All the applicants are working as Teachers at present places from July, 2003. They are entitled to continue at their respective places till they complete eight years of service in terms of transfer rules issued in G.O.Ms.No.102, Education, dated 5-8-2005. Under the guise of impugned G.O.Ms.No.130, the Respondents are taking steps to recover the amount paid to the applicants by way of time scale of pay from 1.4.2005/7.5.2005 as the case may be which is illegal and arbitrary. The applicants submit that the Government also issued G.O. Ms.No.486, dated 11.11.2005 allowing minimum scale of pay to the Girajana Vidya Vikasa Kendra Teachers after completion of two years service though they have not acquired training qualification. Thus, the Respondents cannot take different yardstick in respect of one class of Teachers. Therefore, the impugned G.O. is liable to be quashed. Hence the applicants filed the present O.As, for the relief as mentioned above.

7) The Respondents filed Counters denying the allegations made in the respective Applications by contending that in G.O.Ms.No.14, dated 24-2-2003 the Government permitted to engage the selected (untrained) candidates of DSC 2002 as Special Vidya Volunteers and enrol them in a Special Training Programme commencing from March, 2003 and the candidates so selected shall be drafted for practical training by the District Educational Officers on merit-cum-choice basis and shall undertake project and



6) While so, the Government have issued G.O.Ms.No. 130, Education Department, dated 26.10.2005 permitting the Commissioner & Director of School Education, Andhra Pradesh, Hyderabad to appoint the Special Vidya Volunteers as Teachers on regular scale of pay with prospective effect from the date of issue of the orders i.e. 26-10-2005, by relaxing the need for selection through DSC as they were already selected in DSC 2002 in the posts which is quite illegal, unjust and unsustainable insofar as the applicants are concerned. Since the applicants have already been absorbed in the existing sanctioned vacancies and already working since July, 2003 with time scale of pay from 1-4-2005 and 7.5.2005 as the case may be, the question of implementation of G.O.Ms.No.130 to the applicants does not arise. However, the Commissioner & Director of School Education issued consequential proceedings, dated 2.11.2005 directing the concerned District Educational Officers to appoint the Special Vidya Volunteers on regular basis in time scale of pay attached to the post of with prospective effect. In the said proceedings, the District Educational Officers were directed to identify the number of clear vacancies and sanctioned posts against which DSC 2002 untrained candidates are working. In pursuance of the above Proceedings, the concerned District Educational Officers issued a fresh Notification, dated 6.11.2005 stating that counselling will be conducted on 18.11.2005 for the Special Vidya Volunteers, who are selected as untrained Teachers in DSC 2002. Accordingly the places of the applicants were notified in the rationalization

apprenticeship period and regular scales shall be paid as soon as the candidates successfully complete the training programme. The applicants, who are appointed as S.G. Teachers have completed their training programme by 7-5-2005, whereas the applicants, who are appointed as Gr.II Pandits have completed their training programme by January, 2005. However, they have completed two years apprenticeship period by 31.3.2005. Therefore, by strictly implementing G.O.Ms.No.748, dated 7.8.2004, all the applicants are entitled for regular absorption in their respective posts with regular time scale of pay from 1-4-2005 and 7-5-2005 as the case may be.

5) The applicants also contended that the concerned District Educational Officers issued Proceedings, dated 14.5.2005 directing the concerned competent authorities i.e. M.E.Os/HMs, to award regular scale of pay to the Special Vidya Volunteers after completion of two years period of apprenticeship and after acquiring the required qualification prescribed to the post held by them. Thus, by implementing G.O.Rt.No.748, dated 27.8.2004 read with Proceedings, dated 14.5.2005, the concerned Mandal Educational Officers have issued proceedings granting regular pay scales in their respective posts from the date of acquiring the requisite training qualification i.e. 7.5.2005 and 1.4.2005 as the case may be. Thus, all the applicants are working as regular Teachers in their respective regular sanctioned vacancies with time scale of pay from 1.4.2005/7.5.2005 as the case may be, though they were appointed during March, 2003.

Teacher/Gr.II Pandits. The Special Vidya Volunteers, who were appointed against the vacancies of Secondary Grade Teacher have undergone two years D.Ed. Training course from 5-7-2003 to May, 2005, whereas the Special Vidya Volunteers, who were appointed against the vacancies of Gr.II Pandits have undergone Pandit Training from 1.5.2004 to 7.1.2005. Thus, all the applicants have passed their respective training by May, 2005 and January, 2005 as the case may be and became eligible and entitled for regular absorption with time scale of pay. The applicants have been paid Rs.1,000/- per month during the first year training and Rs.1,500/- per month during the second year training as stipend.

4) The applicants further contended that the Commissioner & Director of School Education, Hyderabad issued Proceedings dated 27-6-2003 stating that after completion of two years of service, the applicants are entitled for minimum scale of pay of the post in which they were appointed till they acquire training qualification. Accordingly, all the District Educational Officers in the State were directed to allow minimum of the scale of the post in which untrained candidates have been appointed, provided they have completed two years of apprenticeship. The Government issued G.O.Rt.No.748, dated 27.8.2004 stating that the Special Vidya Volunteers are entitled to leave on par with the regular Teachers and that they need not pay any course fees for the second year which will be met from DPEP/SSA funds. In Para 3 (4) of the said G.O., it was categorically mentioned that the training period of Special Vidya Volunteers will be construed as

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candidates. In G.O.Ms.No.14, Education Department, dated 24.2.2003 the Government accorded permission to the Commissioner & Director of School Education, A.P. Hyderabad to engage the selected (untrained) candidates of DSC 2002 as Special Vidya Volunteers and enroll them in a Special Training Programme for two academic years, commencing from March, 2003 on a monthly stipend of Rs.1000/-. It is also mentioned in the said G.O. that the candidates so selected shall be drafted for practical training by the District Educational Officers and shall undertake project work. In terms of the said G.O. and as per the rank obtained in DSC 2002, the applicants were selected and appointed as untrained teachers in the posts of S.G. Teachers/Gr.II Pandits/PETs. etc. After completion of project work, all the applicants were appointed as Special Vidya Volunteers and allotted to respective schools against the sanctioned vacancies of S.G. Teachers/Gr.II Pandits through Proceedings, dated 5-7-2003 issued by the District Educational Officers concerned. In the appointment orders it was mentioned that the untrained candidates, who are selected as S.G. Teachers have to undergo two years Course of Diploma in Education, whereas the candidates, who were appointed as Gr.II Hindi Pandits shall undergo nine months Pandits Training Course at their cost. The Government in G.O.Rt.No.576, dated 24.6.2003 issued orders permitting the DSC 2002 untrained candidates to undergo pre-service programme. In terms of the said G.O., all the applicants underwent 2 years/9 months requisite training for appointment to the posts of S.G.