

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION Nos.27779 OF 2017 AND 19230 OF 2019

COMMON ORDER:

Since the grievance of the petitioners in both the Writ Petitions is one and the same and it is against the same respondents, this Court deems it appropriate to dispose of these cases by way of this common order.

2. The present Writ Petitions are filed under Article 226 of the Constitution of India seeking appropriate direction to the 1st respondent-Sri Krishnadevaraya University to renew and continue the services of the petitioners as Teaching Assistants in their respective Departments in S.K.University of College of Arts and Sciences until filling up of regular posts in their respective Departments by setting aside the Circular No.SKUC/College of Arts/2017 dated 01.08.2017 issued by the respondents 2 and 3.

3. This Court, by way of orders dated 15.11.2019 and 29.11.2019 respectively in both the Writ Petitions, granted interim direction to continue the petitioners by suspending the

Circular dated 01.08.2017 issued by the respondents 2 and 3 pending disposal of the Writ Petitions.

4. The contention of the petitioners is that they were selected and appointed in their respective Departments on 30.03.2013 for the academic year 2012-13, vide proceedings dated 30.03.2013 and the petitioners herein have reported to duty on the same day in their respective Departments and their services were renewed for the academic year 2013-14 for the first and second semesters, vide proceedings No.SKU/T.Estt/EE.III/2013 dated 01.10.2013 and for the second and third semesters, vide proceedings No.SKU/T.Estt./EE.III/2014 dated 20.02.2014, the services of the petitioners were renewed. Since the year 2013, the petitioners' services are being renewed for respective academic years. While the things stood thus, the 1st respondent-Registrar of the Sri Krishnadevaraya University issued circular No.SKU/T.Estt./EE-III/2017 dated 21.04.2017, requesting all the Heads of the Departments of the University Colleges to send the details relating to teaching workload particulars and requirement of Teaching Assistants for the academic year 2017-

18 on or before 30.04.2017 and, accordingly, a 3-men Committee has been constituted to consolidate and identify the number of Teaching Assistants required for the academic year 2017-18 and the Committee identified the Teaching Assistants required for the academic year 2017-18 and prepared a notification for the same and the University has notified the posts of Teaching Assistants on contract basis in various Departments of the University, vide Notification No.SKU/T.Estt/EE-III/2017 dated 06.06.2017, calling for walk-in interviews on 29.06.2017 and 30.06.2017 and the Committee, while arriving the number of Teaching Assistants to be recruited for the academic year 2017-18, has recommended to continue the existing Teaching Assistants, i.e., the petitioners herein, who served during the academic year 2016-17 and deducted the same number from the total number of Teaching Assistants required during the academic year 2017-18 from the concerned Departments and recommended to notify the remaining number of Teaching Assistants for the academic year 2017-18. Some unemployed qualified persons filed W.P.No.21051 of 2017 challenging the notification dated 06.06.2017 and this Court has

stayed all the further proceedings of the notification dated 06.06.2017. It seems that the Sri Krishnadevaraya University Colleges of Arts and Sciences, vide Circular Nos.SKUC/College of Arts/2017 dated 01.08.2017 and SKU/College of Science/2017 dated 01.08.2017, informed the Heads of the Departments to hire the services of the available academic consultants to cope up with the existing work load in the concerned Departments. Aggrieved by the said Circulars, the present Writ Petitions came to be filed on the ground that without continuing the petitioners and permitting the 2nd and 3rd respondents to engage Academic Consultants in lieu of Teaching Assistants without notifying and following the rule of reservation and roster as being illegal and contrary to the Government Orders and which violates Article 14 of the Constitution of India.

5. Learned counsel for the respondents would submit that the writ petitioners herein are not entitled for any right to continue in the services, as their services are purely temporary and also would submit that the judgment of the Hon'ble Apex Court in the case of *Secretary, State of Karnataka & Ors. v.*

*Umadevi & Ors.*¹ is not applicable to the present case in view of the judgment of the Hon'ble Apex Court in *Narendra Kumar Tiwari and others v. State of Jharkhand and others*² and the petitioners' appointments are purely contract in nature which are non-statutory, the term of appointment for period of one year and the said period was lapsed, in view of the same, the respondent-University had not extended the contract and in view of the same, prayed for dismissal of the Writ Petitions. Learned counsel for the respondents also would rely on the UGC Regulations, 2018 and G.O.Ms.No.14, Higher Education (UE) Department, dated 13.02.2019, wherein it was clearly stated that the Teachers on contract basis in the Universities shall be appointed only when it is absolutely necessary and further it clearly reveals that any such appointments should not be made initially for more than one academic session and the performance of any such entrant teacher should be reviewed for academic performance before re-appointing him/her on contract basis for another session.

¹ (2006) 4 SCC 1

² (2018) 8 SCC 238

6. The Hon'ble Supreme Court in the case of *Shashi Prakash v. State of Bihar*³ held that a set of temporary employee cannot replace with another set of employee on the ground that a temporary employment can only be made against the substitution whether it is of regular or ad hoc appointment and as per the UGC Regulations, 2018, the services of the entrant teacher can be reviewed basing upon the performance by opposing him/her on contract basis for another session. Therefore, this Court, by relying on the judgment of the Hon'ble Apex Court and the Regulations of UGC, is inclined to direct the respondent-authorities to continue the petitioners in their respective posts until the regular appointments be made by the respondent-University and however, the respondent-authorities can review the performance of any such entrant teacher for academic performance before re-appointing him/her on contract basis for another session.

7. With the above direction, both the Writ Petitions are disposed of. There shall be no order as to costs of the Writ Petitions.

³ (2010) 4 SCC 1917

As a sequel, interlocutory applications pending, if any, in these Writ Petitions shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 21.11.2022

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