

IN THE HIGH COURT OF KARNATAKA AT
BANGALORE

DATED THIS THE 09TH DAY OF NOVEMBER 2011

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No. 14320 OF 2007 (S-REG)

BETWEEN:

1. Smt.Malathi Bai,
W/o. Sri.S.S.Chidambara,
Aged about 54 years,
Hindi Teacher,
National High School,
Kuppagadde, Soraba Taluk,
Shimoga District – 577 429. ... PETITIONER

(By Shri. T.R.Sridhar, Advocate)

AND:

1. The Secretary to Government of
Karnataka,
(Primary and Secondary Education Department)
Education Department,
M.S.Building,
Bangalore-560 001
2. The Commissioner of Public Instructions,
New Public Offices,

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K.R. Circle,
Bangalore-560 001,

3. The Director of Public Instructions,
(Secondary Education),
Office of the Commissioner for Public
Instructions, New Public Offices,
K.R. Circle,
Bangalore-560 001.
4. The Joint Director of Public Instructions,
Bangalore Division, 1st Floor,
K.S.E.E.B, Building,
Malleshwaram 6th Cross,
Bangalore-560 003.
5. The Deputy Director of Public Instructions,
Shimoga District,
Shimoga-577 201.
6. The Block Education Officer,
Sorab Taluk, Sorab,
Shimoga District-577 429.
7. The Management of Dandavathi
Vidyavardhaka Sangha,
Kuppagadde,
Sorab Taluk-577 429,
Represented by its Secretary. ... RESPONDENTS

(By Shri. Raghavendra G Gayathri, High Court Government
Pleader for Respondent Nos. 1 to 6
Shri. P.G.Mogali, Advocate for Respondent No.7)

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This Writ Petition is filed under Article 226 of the Constitution of India praying to quash the order bearing Appeal No.167/1999, dated 29.3.2007 (W.P.No.17786/2002, order dated 14.8.2006) passed by the Secretary to Government (Primary and Secondary) Education Department (Annexure-K) as illegal and etc.

This Writ Petition is coming on for Hearing this day, the court made the following:

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader.

2. The facts briefly stated are as follows:

The petitioner was appointed as a part-time Hindi Teacher in the National High School, Kuppagadde, Soraba Taluk, Shimoga District. Her appointment, according to the petitioner, was regularised by the Government and she was paid about Rs.28/- per month. This paltry salary did not satisfy the petitioner and she was unwilling to continue in the post. The management took note of the serious situation and if the

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petitioner were to tender her resignation, there was no candidate, who was willing to join the post, especially, in the school which was in a rural area and accordingly had passed a resolution proposing to approach the competent authorities to sanction the post of a Full-time Hindi Teacher in the stead of part-time Hindi Teacher.

3. It is the case of the petitioner that the Government had also relaxed the Rules and permitted the management to appoint a full-time Hindi Teacher even though there was no sufficient workload to appoint a full-time Hindi Teacher. When matters stood thus, it transpires that the petitioner was relieved from her duties at the end of the academic year in April 1981 and this was done with a *mala fide* intention of recruiting some other candidate, since the petitioner had raised several demands which the management was not ready to concede though there was a proposal to approach the competent authorities for the sanction of a full-time Hindi teacher's post. She was thus

relieved from duties on 10.4.1981, which according to the petitioner, was an illegal order of termination. Since the petitioner was not taken back to duty after the summer vacation, the petitioner was left with no other alternative, but to challenge the order of termination before the Educational Appellate Tribunal. The Tribunal by its judgment allowed the appeal and directed reinstatement of the petitioner and ordered all consequential benefits as if her services were not terminated by order dated 10.4.1981. This was challenged by way of a revision petition before this court by the management. The same was partly allowed with a modification as regards payment of back-wages, which was denied to the petitioner. The petitioner was thereafter reinstated into service, but her services were not regularised on full-time basis. This was in the face of the circumstance that it was next to impossible to secure the services of the Hindi Teachers in rural High Schools and it is in that situation that the State Government had specifically relaxed the conditions and appointed full-time

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Hindi teachers in rural High Schools even though the workload did not warrant such appointment of full-time Hindi Teachers. The petitioner claims that there are several instances where part-time Hindi Teachers, who were appointed along with the petitioner and at places such as Seetharamapura, Shigga Induvalli and Chandragutti, were allowed the benefit of full-time Hindi Teachers right from the date of their appointment. It is only by virtue of the order terminating her services, which was set aside by the Tribunal, that regularisation of her services on full-time is sought to be denied. If her services are treated as being on par with other teachers, in respect of whom the Rules have been relaxed to treat them as full-time Hindi Teachers, notwithstanding that there was no word load warranting such appointment of full-time Hindi Teachers. In this connection, the petitioner had approached this court by way of a writ petition in WP 17786/2002. The petition was allowed and the matter was remanded to the first respondent to reconsider the case of the petitioner for regularisation of her appointment on

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full-time basis by an order dated 14.8.2006. The first respondent however did not extend the benefit to the petitioner notwithstanding the direction by this court to reconsider her case with reference to other similarly placed teachers, who had been given the benefit of full-time teachers. The first respondent having denied such benefit by an order dated 29.3.2007, the petitioner seeks to question the same in the present writ petition.

4. The learned counsel for the petitioner would submit that the petitioner has discharged her duties faithfully for over twenty five years on a paltry salary of Rs.28/- . By virtue of such long service and when other teachers were granted the benefit of full-time teachers' post, notwithstanding that there was no work load warranting such appointment and the same Rule being made applicable to the petitioner, would not be out of place. The intervention of the illegal order of termination dated 10.4.1981 is only an impediment in the State Government

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seeking to deny that the petitioner could claim to be a full-time Hindi Teacher on par with other teachers similarly placed. The learned counsel would go to the extent of contending that the petitioner may not be granted any back wages on the basis of such a consideration if her length of service is taken into consideration for pensionary benefits, since the petitioner is now in the evening of her life and would gain little advantage by the pension that she might derive by virtue of such recognition.

5. While the learned Government Pleader would vehemently oppose the petition and would point out that the primary contention of the petitioner is that the judgment of the Tribunal has conferred a deemed status of a full-time teacher in having observed that the petitioner shall be entitled to all benefits as if she had continued in service and this deeming fiction sought to be incorporated in the judgment is not available and she has been directed to be reinstated in that post

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and therefore, the question of treating the petitioner as a full-time petitioner did not arise. He has pointed out from the record that the proposal for approval of the appointment of the petitioner on full-time basis has never been submitted nor has it been approved by the State. Annexure-F in this regard is sought to be pointed out as being an admitted situation where the Head-Master of the School has indicated his inability to submit a proposal for approval of appointment of the petitioner on full-time basis. In that background, he would submit that the fact that the petitioner has discharged the duties for several decades, would not entitle the petitioner to claim a deemed status of a full-time Hindi Teacher and would submit that there is no ground on which the petitioner can be granted the relief as prayed for.

6. Having regard to the above facts and circumstances, notwithstanding the long suffering of the petitioner, the petitioner being treated as a full-time Hindi Teacher, though on

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record she was only considered as a part-time Hindi Teacher, the judgment of the Tribunal cannot be interpreted in a manner to contend that there is a deemed status of a full-time Hindi Teacher conferred on the petitioner. Since that proposal cannot be accepted, there is no merit in the present petition and the same is dismissed.

Sd/-
JUDGE

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