

HONOURABLE SMT. JUSTICE P. MADHAVI DEVI**WRIT PETITION No. 30055 OF 2022****ORDER:**

This writ petition is filed seeking a writ of mandamus, declaring the action of the respondents in issuing the proceedings Rc.No.480/A2/KU/2022/ZOO-21, dated 11-07-2022 by the second respondent in not agreeing to issue no objection certificate to the petitioner, as illegal and arbitrary.

2. The learned counsel for the petitioner submitted that the petitioner is a doctorate in Zoology. He did M.Sc., Ph.d. In pursuance of notification issued by the Kakatiya University, Warangal, calling applications for filling up the posts of Asst.Professors in various departments, the petitioner had applied for the post of Assistant Professor in Zoology. It is submitted that the petitioner was selected and appointed as Assistant Professor under BC-B category vide proceedings dated 01-05-2010.

3. It is submitted that while the petitioner has been serving as such, one person by name; Sri M.Radhakrishna filed WP.No.15138 of 2010 before this Court, challenging the selections and appointments of Assistant Professors in various disciplines. This Court allowed the writ petition by order dated 28-02-2011, declaring the appointment of petitioner and another person by name

Dr.Ch.Sravanthi, as illegal. Thereafter, the petitioner and Dr.Ch.Sravanthi filed a writ appeal and on dismissal of the same also approached the Supreme Court. The appeal was dismissed by the Hon'ble Supreme Court. Since it is evident that the petitioner's appointment is not legal and his appointment is likely to be terminated by the respondent-university, the petitioner claims that he has made applications as in service candidate to the seven other universities, as mentioned in para No.5 of the writ affidavit. He submits that for consideration of his application by the other universities, one of the requirement is 'no-objection certificate' from the respondent-university. He submits that the petitioner has made an application for issuance of 'NOC' by letter dated 14-03-2022 and another application dated 01-06-2022 respectively but the respondent-university has rejected his application vide proceedings Rc.No.480/A2/KU/2022/ZOO-21, dated 11-07-2022. Challenging the said proceedings, the petitioner has filed the present writ petition.

4. The learned standing counsel, who appears for Kakatiya University, Warangal, on oral instructions, submitted that the petitioner's appointment itself has been declared as illegal by this Court and confirmed by the Hon'ble Supreme Court and therefore he cannot be considered as an employee of the respondent-university; and therefore, 'NOC' cannot be issued to him. The learned standing counsel for the respondent university also furnished a copy of the order in W.A.No.765 of 2016, dated 28-03-2022 and submits that the respondent-university in its Executive Council with complete quorum, in its

130th emergency meeting held on 15-11-2019 has passed a resolution to the effect that the appointment of the petitioner and Dr.Ch.Sravanthi and others is not approved and their appointments were cancelled by the Executive Council. The learned standing counsel for the respondent-university also filed a copy of the resolution dated 15-11-2019, in which the selections made by the selection committee have not been approved except in the category of BC-C and therefore, he submits that the respondent university cannot issue the 'NOC' to the petitioner.

5. Having regard to the rival contentions and the material on record, this Court finds that though the petitioner's services were terminated by the respondent university w.e.f. 28.06.2016, in view of the interim directions in Writ Appeal i.e., W.A.No.765 of 2016 the petitioner was taken back into service subject to final judgment in W.A.No.765 of 2016 vide orders dated 07.03.2017 and he continued to remain in service in all the years thereafter. Though it is the case of the Kakatiya University that the Executive Council has not approved the selections of Dr.Ch.Sravanthi and Dr.G.Rajender i.e., the petitioner herein in its 130th meeting held on 25.11.2019, the petitioner was continued in service. Even though the appointment has been held as invalid by the Division Bench of this Court and also the Hon'ble Supreme Court, it is not denied that the petitioner has rendered service as an Assistant Professor of Zoology during the pendency of the writ petition and also writ appeal and he continued in service even as on 11.07.2022 when his application for issuance of No Objection

Certificate has been rejected by the University. Further, since the petitioner has made applications to other Universities as an in-service candidate, the petitioner was required to submit the No Objection letter. As the petitioner's services have not been terminated subsequent to the judgment of the W.A.No.235 of 2011 and it is not denied that the petitioner has been rendering the services for the past 10 years i.e., from the year 2010 onwards, this Court is of the opinion that the respondent University ought to have issued the Service Certificate to enable the petitioner to submit his application to other Universities. It is pertinent to note that there are no disciplinary proceedings or any adverse comments against the working of the petitioner. Therefore, the writ petition is accordingly allowed and the respondents are directed to issue the service certificate to the petitioner forthwith.

6. Accordingly, this writ petition is allowed. There shall be no order as to costs.

7. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

Date: 28 .08.2023
ISL/bak

JUSTICE P.MADHAVI DEVI

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