
(2014) 12 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 831 of 2006

Acharya N.G. Ranga Agricultural University

APPELLANT

Vs

E.D. Livingston

RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Andhra Pradesh Agricultural University Act, 1963 — Section 2(n)

Citation : (2015) 4 ALD 135

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : T. Durga Reddy, Advocate for the Appellant; Abhinand Kumar Shavali, Advocate for the Respondent

Judgement

L. Narasimha Reddy, J.—It is natural that in every University, there would be teaching and non-teaching posts. By and large, the age of superannuation of teachers is fixed at 60 years and for non-teaching staff, it is fixed at 58 years.

2. The sole respondent herein was appointed as an Upper Division Clerk in the appellant-University. Over the period, he acquired the qualifications of B.L.I.Sc. and M.L.I.Sc. The post of Assistant Librarian became vacant and he was appointed against it in the year 1984. In the University Library, there were other incumbents also, who were working as Assistant Librarians.

3. The appellant sought to retire the respondent from service on attaining the age of 58 years. The latter filed W.P. No. 22878 of 1998 for a writ of mandamus to declare that the person holding the post of Assistant Librarian is entitled to continue in service till he attains 60 years of age and that the proposal of the University to retire him before that age is contrary to law. The Writ Petition was opposed by the appellant by filing a counter affidavit. It was pleaded that the term teacher is defined in the statutes and the post of Assistant Librarian does not fit into it. It was also urged that the Assistant Librarian in the University is not entrusted with any duties of teaching and there was no basis for the claim of the respondent to be continued upto 60 years. The learned Single Judge allowed

the Writ Petition through order dated 06.04.2006. Hence, this Writ Appeal.

4. Sri T. Durga Reddy, learned Standing Counsel for the appellant submits that by no stretch of imagination, an Assistant Librarian can be treated as teacher particularly in a professional University like the appellant. He contends that except that the Assistant Librarian is required to maintain the books by indexing them and guiding the students to use the books, he is not entrusted with the duties of the teaching at all. He contends that though two Writ Petitions, being W.P. Nos. 22878 of 1998 and 21035 of 2002, were filed by the persons holding the post of Assistant Librarian, the learned Single Judge dismissed one, but allowed the other, on the same day.

5. Sri Abhinand Kumar Shavali, learned counsel for the respondent submits that notwithstanding the fact that the predominant duties of the Assistant Librarian are to upkeep the Library and to maintain and index the books, the University itself issued circulars assigning some teaching duties also to him and since such duties were performed by the respondent herein, the learned Single Judge has rightly granted the relief. He contends that when the person holding the post of physical director is treated as a teacher, there is no reason why the post of Assistant Librarian cannot be treated in that manner.

6. The appellant has placed before this Court the copies of the two judgments dated 06.04.2006 in W.P. Nos. 22878 of 1998 and 21035 of 2002. Both the writ petitions were filed by the Assistant Librarians. The first one was allowed and the second one was dismissed through different judgments of the same day. What weighed with the learned Single Judge to take a different view was that the respondent herein was assigned some teaching duties, and the petitioner, in the other writ petition, was not. Therefore, it needs to be seen as to whether such an approach can be countenanced.

7. In both the writ petitions, the learned Single Judge has undertaken discussion on the touchstone of the relevant provisions of the statutes, and the judgment of the Supreme Court in *P.S. Ramamohana Rao v. A.P. Agricultural University* and observed that the definition of word teacher under Section 2(n) of the A.P. Agricultural University Act refers to a person, who was appointed as such, or recognized by the University, in the context of imparting instructions or conduct or guide research and not otherwise. It was observed that the post of Assistant Librarian does not fall into that definition.

8. In *P.S. Ramamohana Raos* case, the Supreme Court took the view that the Physical Director gives guidance and teaching to the students and the various duties that are assigned to him bring him within the purview of the teacher. Such is not a case with a Librarian. It is no part of his duty to teach the students that too in a specialized subject like agriculture, which he did not have any occasion to deal with, at any point of time.

9. Much emphasis was laid by the respondent on the list of duties, which included conduct orientation classes to fresh students. A Circular issued in this

regard is also placed before this Court. A perusal of the same discloses that along with five officials of the University, a Librarian is required to guide the fresh entrants, as to the manner in which they can have access to the library. Even by stretched interpretation of that clause, one cannot come to the conclusion that an Assistant Librarian is assigned with duties of teaching. The learned Single Judge, in fact, arrived at the same conclusion. What, however, weighed with him was that the appellant herein was assigned with duties of teaching on certain occasions. Even that, was by the Principal of the College and not as a matter of compliance with the general circular or statutes issued by the University. The so-called teaching was about the manner in which the library facilities are to be used. The petitioner in the other writ petition was denied the relief on the sole ground that he did not take such classes.

10. The classification of an employee of an organization into a particular category would depend upon the relevant rules as well as the nature of duties that are assigned to the incumbent in general. Mere assignment of duties to an individual without reference to any general duty chart cannot be a factor to be taken into account, in this behalf.

11. We, therefore, allow the Writ Appeal and set aside the order passed by the learned Single Judge in the Writ Petition. We, however, direct that the appellant shall not be entitled to recover any amount paid as emoluments to the respondent for the period during which he worked after attaining the age of 58 years. There shall be no order as to costs.

12. The Miscellaneous Petitions filed in this Writ Appeal shall stand disposed of.