
(1998) 08 KAR CK 0097
In the Karnataka High Court
Case No : Writ Appeal No. 8746 Of 1996

C.K. Pattamashetti

APPELLANT

Vs

The Bangalore University and Another

RESPONDENT

Date of Decision : 21-08-1998

Acts Referred:

Karnataka State Universities Act, 1976 — Section 2 (7), 2 (8), 49, 50

Citation : (1998) 6 KarLJ 141

Hon'ble Judges : R.P. Sethi, C.J.;K.R. Prasad Rao, J

Bench : Division Bench

Advocate : Sri R.H. Chandanagoudar, for the Appellant; Sri U. Abdul Khader, A.G.A. and Sri N.K. Patil, for the Respondent

Judgement

R.P. Sethi, J.—The appellant who was appointed as a Librarian by the respondent-University vide Annexure-B filed a petition praying for issuance of a direction to treat the post of Librarian as Teacher or Professor and extend the benefit of age of superannuation as prescribed for Teachers or Professors of the University. He prayed in the alternative that respondent 1 be directed to recognise him as Teacher having regard to Annexure-C to G and give him the benefit of age of superannuation of 60 years as a special case. It was further prayed that respondents be refrained from relieving the petitioner from service till he attained the age of 60 years.

2. The writ petition was dismissed by the learned Single Judge vide the order impugned in this appeal after holding that the appellant being Librarian could not be treated as a Teacher for the purposes of grant of relief as prayed for by him. The learned Single Judge was persuaded to dismiss the writ petition in view of the Judgment of this Court in M.R. Sannamegowda Vs. University of Mysore, .

3. Section 2(7) of the Karnataka State Universities Act, 1976 (for short "the Act") defines the "Teacher" to include Professors, Readers, Lecturers and other persons imparting instruction in any affiliated College. Teacher of the University has been defined u/s 2(8) of the Act to mean persons appointed for the purpose

of imparting instruction in the University or in any college maintained by the University. Section 49 of the Act deals with the appointments of Teachers including the Librarians and other employees of the University. Section 50 deals with the appointment of non-teaching and ministerial staff.

4. In *University of Mysore Vs. P. Maribasavaradya*, , this Court after referring to the provisions of Section 2(7) and 2(8) of the Act held:

"The only point that arises for consideration is:

Whether the impugned order dated 28-1-1989 (Annexure-E) permitting the respondents to retire from service is valid and sustainable in law?

In view of the clear definition contained in Section 2(7) and 2(8) of the Act and Statute No. 3 of 1984 Statutes, there is no scope to construe the respondents as Teachers of the University. We need not stretch or strain the definition of the Teachers of the University" so as to include the respondents when the only particular class of persons are included in the said definition without leaving any scope to include other class of persons. In other words, the respondents stood excluded from the definition of the University Teachers and fit in the category of other employees.

The qualifications prescribed for the post of Research Assistants Class I and II also indicate that they are not intended for the purpose of teaching. The appellants in their return filed in the writ petitions have categorically stated that the job of the respondents was to copy the old scripts in the form of new manuscripts so as to edit them and print them in the form of modern books. They were not assigned any teaching work and as a matter of fact they have never taught any subject as such in the University. Thus, even on facts they were never considered as Teachers of the University. Further, the respondents were not the persons appointed for the purpose of imparting instructions within the meaning of "Teachers of the University" as defined in Section 2(8) of the Act.

The respondents were also not appointed as Teachers u/s 49 of the Act. The method of recruitment of teaching staff is entirely different from the non-teaching staff. The post of Research Assistants are filled upon as per the provisions of Section 50 of the Act. Having regard to the nature of work, mode and the manner of recruitment, classification of their category and conditions of service, the respondents cannot be placed on par with the Teachers. When the respondents constitute separate class, they cannot complain of any discrimination. The Research Assistants who are unequal to the Teachers of the University cannot contend that they are discriminated as such. They cannot be considered as equals in the matter of attaining the age of superannuation. Any such attempt in view of the definitions contained in Section 2(7), 2(8) and Statute No. 3, would amount to re-writing with the affairs of the University in its wisdom has framed these Statutes 1984, probably taking into consideration all aspects of the matter in exercise of the powers conferred under the Statute, it is not open to add, amend or abridge such statute particularly when the statutes in

question are framed in accordance with law, as observed by the learned Single Judge himself in para 12 of the order".

5. What follows from the aforesaid judgment is that if the appointment is made u/s 49 of the Act, and the circumstances could be brought to the notice of the Court showing that the persons claiming the benefit of being a Teacher was imparting instructions within the meaning of Section 2(7) and 2(8) of the Act, appropriate relief could be granted to him after holding him as a Teacher. In that case it was proved that the respondents therein had not been appointed u/s 49 of the Act and "having regard to the nature of the work, mode and the manner of the recruitment, classification of their category and the conditions of service, the respondents cannot be placed on par with the Teachers". Such is not the position in the instant case. It is rather conceded that the appellant was appointed as a Librarian in terms of Section 49 of the Act and not Section 50. Section 49 of the Act, as noticed earlier deals with the appointments of Teachers including the Librarian, whereas Section 50 deals with the appointment of the non-teaching and ministerial staff. Reference of Section 49 in the order of appointment of the appellant cannot be termed to be of no significance or allegedly referred to in ignorance of the provisions of the Act. The order of appointment clearly indicated that the appellant was not treated as belonging to "other non-teaching and ministerial staff of the University". Such a reference indicated that he was appointed as a Librarian for the purposes of imparting instructions as is evident from the subsequent follow-up action taken by the University. Annexure-C is a certificate issued on 12th of August, 1980, wherein it is certified that the appellant who was then the Deputy Librarian of the University, had been associated with the teaching in the Department of Library Science for the last seven years. He was stated to have handled classes both B.Lib.Sc. and M.Lib.Sc. It was further declared that the appellant had served as a guide for the working-desecration of the students of M.Lib.Sc. Vide Annexure-D, the appellant was given the Additional charge of the post of Chairman, Department of Studies and Departmental Council in Library and Information Science of the University pursuant to resolution of the Syndicate passed in its meeting held on 3-7-1991. Vide Annexure-E, the appellant was requested to set the question paper for M.Sc. (Previous) Library and Information Science Examination scheduled to be held between 17-10-1994 and 24-10-1994. Vide Annexure-F, a Board of Post-Graduate Library and Science Information Study Centre was constituted as per Rule 29(2) of the Act on the basis of the decision taken by the Syndicate of the University and appellant was made a member of the aforesaid Board.

6. The facts noticed herein above clearly and unambiguously show that the appellant was associated with the teaching activities and had for a long time been imparting instructions in the University with respect to the classes connected and concerned with the Library Science. Such a position appears to have been later acknowledged by the Government also as is evident from Government Order No. ED 09 UEC 98, dated 27th of June, 1998, by which the Librarians connected with the imparting of instructions in the Library Science

have been held to be the Teachers within the meaning of Section 2(7) and 2(8) of the Act.

7. It may be useful at this stage to also take note of the Dictionary meaning of the word "teachers". According to the Webster's Dictionary it means a person who teaches. The word "teach" has been defined to mean "demonstrate as in cognate, to show or help to learn how to do something, give instruction to, to give lesson to students, guide the study of, to provide with knowledge course to throw, understood".

"Teach" has been defined under the Chambers 21st Century Dictionary to mean "to give knowledge to someone, to instruct someone in skill or help them to learn, to give lessons in (a subject) especially as a professional, to make someone learn or understand".

In Oxford Dictionary it has been defined as: "enable or cause by instruction and training, give lessons at school or elsewhere, give instruction to, educate, explain, show, state by way of instruction".

According to Halsbury's Laws of England "Teachers" includes such persons as may be prescribed by such regulations, employed otherwise than as teachers, either in a capacity connected with education which to a substantial extent involves the control or supervision of teachers, or in employment which involves the performance of duties in connection with the provision of education or services ancillary to education.

8. From what has been noticed and discussed above, it can be safely concluded that the appellant was a teacher for all practical purposes within the meaning of Section 2(7) and 2(8) of the Act and entitled to all consequential benefits. The learned Single Judge appears to have ignored the circumstances taken note of by us. The order impugned is therefore not sustainable.

9. Accordingly, the writ appeal is allowed by setting aside the order of the learned Single Judge. Rule issued in writ petition is made absolute. A direction is issued to the first respondent-University to treat the post of librarian held by the appellant as teacher and extend him the benefit of age of superannuation, which is fixed for teachers. As the appellant is stated to have retired without getting the benefit of the age prescribed for a teacher, he is held entitled to such monetary benefits to which he would be entitled had he not been retired earlier. It is made clear that the appellant shall be deemed to have retired after attaining the age of 60 years and conferred with all consequential benefits including the payment of arrears of salary. No costs.