

(2012) 08 AP CK 0104

In the Andhra Pradesh High Court

Case No : Writ Petition No. 24048 of 2001

Dr. T.V. Ramana Rao

APPELLANT

Vs

Sultan-UI-Uloom Educational Society and Others

RESPONDENT

Date of Decision : 16-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 39(d)

Citation : (2013) 4 ALD 428 : (2013) 4 ALT 100

Hon'ble Judges : P.V. Sanjay Kumar, J

Bench : Single Bench

Advocate : D.V. Sitaramamurthy, for the Appellant; C.V.R. Rudra Prasad, Counsel for Respondent No. 1, G.P. for School Education for Respondent Nos. 2 and 3, Mr. Ponnamm Ashok Goud, Asst. Solicitor General for Respondent No. 4 and Mr. Deepak Bhattacharjee, for the Respondent

Final Decision : Allowed

Judgement

P.V. Sanjay Kumar, J.—The petitioner retired on 31.1.2000 from the service of the first respondent-educational society, having worked as a Professor in the Muffakam Jah College of Engineering and Technology, Hyderabad, under its control. His grievance in the present writ petition is with regard to the inaction of the first respondent-Educational Society in implementing G.O.Ms. No. 208, Higher Education (UE. II. 1) Department, dated 29.6.1999, with regard to fixation of his scale of pay. He seeks a consequential direction to the respondents to do so and pay him his arrears of salary and gratuity in accordance therewith along with interest. The petitioner entered the service of the first respondent-society as a Reader in Muffakam Jah College of Engineering and Technology, Hyderabad, on 28.10.1981. He was thereafter promoted as a Professor in October, 1989. By order dated 31.1.1994, the first respondent-Society declared the successful completion of probation of the petitioner as a Professor in the said College and confirmed his services with effect from the date of his initial appointment, 28.10.1981. Earlier, by letter dated 19.2.1990, the first respondent-Society had informed the petitioner that it had decided to extend the revised

UGC scales of pay, 1986, to the members and staff of Muffakham Jah College of Engineering and Technology and that his pay was accordingly revised with effect from 1.1.1990. The petitioner was asked to claim his salary accordingly.

2. While so, the Government of Andhra Pradesh issued G.O.Ms. No. 208 dated 29.6.1999 accepting the recommendations of the Committee constituted by it with regard to extension of the revised UGC Scales of Pay, 1996. The revised scales of pay were named the Andhra Pradesh Revised UGC Scales of Pay, 1996. As per the G.O., the scales were applicable to all Teachers in the Universities and Affiliated Degree and Post-Graduate Colleges, whether Government or Private Aided Colleges, who were drawing pay in the A.P. Revised UGC Scales of Pay, 1986. As stated earlier, the petitioner was drawing his pay in the Revised UGC Sales of Pay, 1986. He made a specific statement to this effect in para (5) of the writ affidavit.

3. However, the case of the first respondent-Society, as reflected in its counter, is that G.O.Ms. No. 208 dated 29.6.1999 would have no application to the petitioner. It was pointed out that the College was not a Government or Private Aided College and therefore, the G.O. would have no application. The petitioner's averment as to his being paid as per the UGC Scales of Pay, 1986, was however studiously ignored in the counter.

4. The first respondent Educational Society's contention as to the non-applicability of G.O.Ms. No. 208 dated 29.6.1999 does not merit acceptance. In K. Krishnamacharyulu and Others Vs. Sri Venkateswara Hindu College of Engineering and Another, the Supreme Court, while dealing with a similar contention raised by an unaided private college, observed thus:

...We are of the view that the State has obligation to provide facilities and opportunities to the people to avail of the right to education. The private institutions cater to the need of providing educational opportunities. The teacher duly appointed to a post in the private institution also is entitled to seek enforcement of the orders issued by the Government. The question is as to which forum one should approach. The High Court has held that the remedy is available under the Industrial Disputes Act. When an element of public interest is created and the institution is catering to that element, the teacher, being the arm of the institution, is also entitled to avail of the remedy provided under Article 226; the jurisdiction part is very wide. It would be a different position, if the remedy is a private law remedy. So, they cannot be denied the same benefit which is available to others. Accordingly, we hold that the writ petition is maintainable. They are entitled to equal pay so as to be on a par with government employees under Article 39(d) of the Constitution.

5. Viewed thus, the admitted fact of the matter is that the petitioner was paid as per the UGC Scales of Pay, 1986 and G.O. Ms. No. 208 dated 29.6.1999 merely extended the A.P. Revised UGC Scales of Pay, 1996, to teachers who were already drawing the A.P. Revised UGC Scales of Pay, 1986, irrespective of the

nature and status of the college.

6. The learned counsel for the first respondent-Educational Society argued that Engineering Colleges do not find mention in the above-mentioned G.O. and therefore, Muffakam Jah College of Engineering and Technology cannot be brought within the ambit thereof. It is however to be noticed that a copy of the said G.O. was marked to the Registrar of JNTU, Hyderabad, for implementation. Needless to state, the Colleges affiliated to JNTU, Hyderabad, would be Engineering Colleges. This contention of the learned counsel for the first respondent-Society is therefore without basis.

7. As the first respondent-Society extended the benefits of the 1986 UGC Scales of Pay to the petitioner, it is bound to adopt and extend to him the Revised UGC Scales of Pay, 1996. The petitioner would therefore be entitled to re-fixation of his salary in accordance with G.O.Ms. No. 208 dated 29.6.1999 and to all other consequential benefits that flow therefrom. The Writ Petition is accordingly allowed directing the Respondents 2 and 4 to ensure that the first respondent-society re-fixes the salary of the petitioner in terms of G.O.Ms. No. 208 dated 29.6.1999 and allows to him all consequential benefits in accordance therewith. This exercise shall be completed within two months from the date of receipt of a copy of this order. No order as to costs.