
(2012) 07 AP CK 0083
In the Andhra Pradesh High Court
Case No : WA No. 832 of 2012

English and Foreign Languages University Others	APPELLANT
Vs	
Dr. P. Ranjanamma and Another	RESPONDENT

Date of Decision : 09-07-2012

Acts Referred:

Citation : (2013) 3 ALD 735 : (2013) 4 ALT 725

Hon'ble Judges : K.G. Shankar, J;G. Rohini, J

Bench : Division Bench

Advocate : K. Ramakanth Reddy, for the Appellant; Pratap Narayan Sanghi for the Respondent No. 1 and Lakshmi Kanth Rep. for Deepak Bhattacharjee, SC for Osmania University for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

G. Rohini, J

1. This appeal is preferred against the order dated 25.6.2012 passed by the learned Single Judge in WPMP No. 3233 of 2012 in WP No. 32889 of 2010. The 1st respondent herein is the writ petitioner, who joined the services of the erstwhile Central Institute of English and Foreign Languages (CIEFL) in the post of "Producer" in the year 1985. It is claimed that the post of Producer held by the writ petitioner was confirmed by the University Grants Commission (UGC) as an "Academic Non-Vocational" post and accordingly she was extended the benefit of Career Advancement Scheme and thereafter the senior scale of pay was also granted to her on completion of five years. According to the writ petitioner/1st respondent herein, right from the date of her recruitment she has been holding a teaching post. Admittedly, she was also granted Pay Band-IV on par with the Readers/Professors from February, 2009 onwards. However, by proceedings dated 10.12.2010 the English and Foreign Languages University (for short "the University") which is the successor in interest of CIEFL, placed the petitioner in Pay Band-III on certain clarifications stated to have been received from UGC. Aggrieved by the same, she filed WP No. 32889 of 2010 seeking a declaration

that the proceedings dated 10.12.2010 are arbitrary, illegal and contrary to Section 26(3) of the UGC Act, 1956 apart from being violative of the principles of natural justice. This Court, while issuing rule nisi, by order dated 30.12.2010 in WPMP No. 41784 of 2010 suspended the impugned proceedings dated 10.12.2010. While so, by subsequent order dated 12.10.2011 the writ petitioner was informed by the University that she was to retire from the service of the University on 30.6.2012 on attaining the age of superannuation of 60 years.

2. In the circumstances, the writ petitioner filed a fresh application being WPMP No. 3233 of 2012 in which the order under appeal came to be passed by the learned Single Judge suspending the proceedings dated 12/18.10.2011 insofar as it pertains to the writ petitioner and directing the University to continue her in service till she is 65 years of age. Aggrieved by the said order dated 25.6.2012, the present writ appeal is filed by the University.

3. We have heard Sri K, Ramakantha Reddy, the learned Counsel appearing for the appellant/University, Sri Pratap Narayana Sanghi, the learned Counsel appearing for the 1st respondent/writ petitioner as well as Sri Lakshmi Kanth, the learned Counsel representing Sri Deepak Bhattacharjee, the learned Counsel for UGC.

4. The material available on record shows that the writ petitioner was appointed pursuant to the advertisement issued by the erstwhile Central Institute of English Languages, Hyderabad (CIEFL) on 31.1.1985 inviting applications for various posts in the Educational Media Research Centre (EMRC) set up by the UGC at CIEFL. One of the posts so advertised was Producer. Admittedly the writ petitioner was selected against the said post of Producer and was appointed vide proceedings of the Registrar of CIEFL dated 26.6.1985.

5. It is not disputed before us that EMRC is a separate entity set up by UGC. It is mainly for the purpose of undertaking production of Audio-Visual programmes and to conduct research in the media. In the year 1990 the UGC appears to have decided to treat certain existing posts in the Media Centres as Academic (Non-Vocational) posts. The post of Producer/Production Assistant is also one of the posts so treated as Academic (Non-Vocational).

6. Therefore, the writ petitioner claims that the post held by her is a teaching post. Thus, according to her, she is entitled to continue in service upto 65 years of age on par with the teachers in the regular service of the University.

7. It is a fact that in terms of the decision taken by the Government of India, Ministry of Human Resources Development, the age of superannuation for teachers in Central Educational Institutions has been enhanced to 65 years for those involved in class room teaching.

8. However, the question is whether the writ petitioner, who is appointed in the post of "Producer" in a Media Centre set up by the UGC at the University is entitled to the said benefit.

9. According to the University, the post of Producer held by the writ petitioner is a non-teaching post and therefore the writ petitioner has to retire from service on attaining the age of 60 years. It is the specific case of the University that all the posts available in EMRC are non-teaching posts and it has been treated so in all the Central Universities all over the country. It is also pointed out that the qualifications required for the post of Producer are entirely different from an academic post in the University and even the Selection Committee constituted for appointment of Producer is different. It is also contended that the initial appointment of the petitioner itself is for a non-teaching post and it has never been converted as a teaching post. It is also pointed out that for the post of Producer, there is no promotional channel, whereas for a teaching post i.e., Lecturer/Assistant Professor, one can be promoted to the post of Reader and then to Professor.

10. However, it is contended on behalf of the writ petitioner/1st respondent herein that the fact that she was granted Pay Band-IV on par with the Readers/Professors and that she was also extended the selection grade scale under the Career Advancement Scheme of UGC which is normally applicable to only a teaching post itself shows that the post held by her has always been treated by the University as a teaching post.

11. Accepting the claim of the writ petitioner, the learned Single Judge passed the order under appeal. The operative portion of the said order is as under:

Further, the categorization of the posts into three varieties in the staffing pattern clearly indicates that Academic (Non-Vocational) posts are distinct and different from technical and administration posts. Normally, non-teaching posts would fall within administration posts or perhaps, even technical posts. Prima facie, the nomenclature "Academic (Non-Vocational) post" indicates that the post is in the nature of a teaching post. Reference in this regard may be made to the judgment of the Madras High Court in *Dr. K. Govindan v. the Registrar, Madurai Kamraj University*, Writ Petition No. 2166 of 2006 dated 8.4.2011, which supports this view.

Thus, this Court is of the opinion that the post held by the petitioner, being an Academic (Non-Vocational) post, is in the nature of a teaching post; that she would be entitled to the benefit of the extended superannuation age of 65 years applicable to teachers and would therefore have a right to continue in service till she attains that age. The proceeding dated 12/18.10.2011 of the respondent University, insofar as it pertains to the petitioner, shall accordingly be suspended pending further orders. The respondent University shall continue the petitioner in service till she is 65 years of age.

12. The conclusion of the learned Single Judge that the writ petitioner is holding a teaching post seems to be mainly on the ground that the nomenclature "Academic Non-Vocational Post" indicates that the post is in the nature of a teaching post. The learned Single Judge has further taken into consideration the

fact that the posts of Reader, Research Assistant and Librarian existing in CIEFL are shown as Academic (Non-Vocational) posts and that they are distinct and different from technical and administration posts. Referring to the judgment of Madras High Court in Dr. K. Govindan v. The Registrar, Madurai Kamaraj University, WP No. 2166 of 2006, dated 8.4.2011, it was held by the learned Single Judge that the writ petitioner would be entitled to the benefit of the extended superannuation age of 65 years applicable to the teachers.

13. At the outset it may be pointed out that no rules and regulations have been made so far governing the posts in EMRC and as of today the terms and conditions of service of all the posts in EMRC are decided only by UGC. Though it was decided by the UGC long back to adopt "personal promotional policy" to the Media Centre staff and the posts in Media Centres are classified into three broad categories namely (i) Academic (ii) Media Technical and (iii) Administrative Staff, giving an option to the existing Non-Vocational academic staff, to opt for either to continue with their old classification or opt for new classification, admittedly, no options were called for so far. The minutes of the meeting of the Central Committee of Media Centre (CEC) dated 30.4.1997 shows that the existing Non-Vacation academic staff, including Producers, have the option either to continue with their old classification or opt for new classification and in the event of retaining the old classification, their promotion policy will be regulated as applicable to the academic staff of the host University and they will not be covered under the promotion policy for Media Technical Staff (MTS). However, the petitioner herself admitted that no options were sought for by the University or UGC so far.

14. It may be true that certain posts in Media Centres including the post of Producer have been classified by UGC as Non-Vacation academic staff. However, the learned Counsel appearing for UGC submitted that all the posts available in EMRC are non-teaching posts and it has been treated as such in all the Central Universities all over the country. It is also brought to our notice that all over the country the staff of the Media Centres including Producers are consistently being retired on attaining the age of 60 years. In fact, the letter dated 23.3.2010 addressed by UGC to the University shows the stand of UGC that the post of Producer cannot be equated with teachers for the purpose of Career Advancement Scheme since it does not fulfil the parameters set by the Ministry of Human Resource Development, Government of India.

15. Even with regard to the decision of the High Court of Madras in Dr. K. Govindan's case (*supra*), which was referred to by the learned Single Judge, what we have observed is that the respondent therein i.e., the Madurai Kamaraj University signed a Memorandum of Understanding with UGC agreeing to treat the academic, technical and other staff of the Media Centre as equivalent to teaching, technical and other staff of the University. On the basis of said Memorandum of Understanding as well as the resolution of the Syndicate of the University which made it clear that the petitioner therein belongs to Academic

Non-Vacation post, it was held by the High Court of Madras that the University was not correct in treating the petitioner therein as one belonging to Non-academic vacation. The said decision in our considered opinion, which was rendered entirely on the basis of the MoU between the University and the UGC, has no application to the case on hand.

16. As noticed above, the claim of the writ petitioner that the post of Producer held by her is a teaching post is seriously disputed by the both the University and UGC. Unless and until the petitioner's claim that the post held by her is a teaching post is established, she is not entitled to continue in service upto 65 years on par with the teachers in Central Educational Institutions.

17. Whether the post held by the petitioner is a teaching post or not in our considered opinion cannot be decided merely on the basis of the nomenclature of the post. Even the fact that the writ petitioner was extended the benefit of the Career Advancement Scheme cannot be taken as the basis to arrive at a conclusion that the post held by her is a teaching post since the UGC itself made clear in its letter dated 23.3.2010 that as per the parameter set by the Ministry of Human Resource Development, Government of India, the post of Producer cannot be equated with teachers for the purpose of Career Advancement Scheme.

18. It is also relevant to note that no counter-affidavit is filed in the writ petition on behalf of the UGC so far. According to the University, the duties attached to the post of Producer are entirely different from the functions of a teacher. As rightly submitted by the learned Counsel for the appellant, the learned Single Judge has not gone into the said issue and no finding as such is recorded. In the facts and circumstances of the case, it appears to us that it cannot be presumed only on the basis of the nomenclature-"Academic Non-Vocational" that the post of Producer is a teaching post. Moreover, since the Media Centres are set up by the UGC and the UGC itself has taken a stand that the post of Producer is not a teaching staff and no service rules or statutory rules governing the staff of the Media Centres are available, the University cannot be compelled by way of an interim order to continue the writ petitioner in service till she attains 65 years of age on par with teaching staff in the University. In fact, the impugned order amounts to allowing the main writ petition without recording any finding on the crucial questions in dispute.

19. For the aforesaid reasons, the order under appeal cannot be sustained. Accordingly, the said order is set aside. However, we make it clear that in case the writ petitioner succeeds in the writ petition she shall be entitled to all the monetary benefits.

20. Since the matter relates to the age of superannuation, the writ petition deserves to be decided without any delay. Hence, the UGC shall file its counter-affidavit to the main writ petition together with the supporting material within four weeks from today. Thereafter, the writ petitioner is at liberty to make a request for expediting the hearing of the writ petition. Accordingly, the writ

appeal is allowed. No costs.