
(2011) 03 KAR CK 0228
In the Karnataka High Court
Case No : Writ Petition No. 46494 of 2003

G. Chalapathi Reddy

APPELLANT

Vs

Bangalore University

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Karnataka State Universities Act, 1976 — Section 51 B

Citation : (2011) 03 KAR CK 0228

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : S.V. Narasimhan, for the Appellant; T.P. Rajendra Kumar Sungay, for Respondent-1, for the Respondent

Judgement

Anand Byrareddy, J.—Heard the learned Counsel for the Petitioner and the Respondent No. 1.

2. The brief facts are as follows:

The Petitioner is a B.Sc. graduate from the Venkateshwara University, Thirupathi, Andhra Pradesh, He had acquired M.A. in Social Anthropology and Post Graduate Diploma in Adult Education in 1976 and M.A. in Sociology in 1980 and M. Phil in Sociology in 1977. The Petitioner has done his Ph.D on Tribal Education in the Department of Adult Education at Shri Venkateshwara University in 1963. The first Respondent - University appointed the Petitioner as a Coordinator, National Adult Education Programme on a pay of Rs. 1090/- in the University Grants Commission scale of pay of Rs. 1100-50-1600 on the terms and conditions stipulated therein. He was appointed on 17.5.1984 and the tenure of appointment was for a period of six months from the date of reporting. The tenure was extended for another period of six months, by an order dated 12.11.1984. It is the Petitioner's further case that pursuant to the resolution passed by the syndicate on 09.2.1985, the services of the Petitioner as Coordinator in the said position was continued for a period of yet another six months, by an order dated 27.2.1985. By an order dated 11.12.1985, he was

temporarily appointed in the University Grants Commission pay scale of Rs. 1200-1900 with admissible allowances with effect from 26.11.1985 and his services were continued from the said date until further orders. It is therefore the assertion of the Petitioner that he was appointed as a Coordinator in the University Grants Commission scale of pay and not the State scale of pay. The University Grants Commission by its communication dated 12.12.1984 addressed to the Registrar of Sri Venkateshwara University had appraised the decision of the Commission to redesignate the post of Coordinator in the pay scale of Rs. 1100-1600 as Assistant Director and the staff working in the higher grade as Director and the method of monitoring and coordination at the University level. This was effective from 08.08.1984. It is the Petitioner's case that in view of the said communication issued by the University Grants Commission, his post was that of a Assistant Director, having regard to the scale of pay and he was therefore entitled to the benefit attached to the said post and by a memo dated 23.3.1992, one Kantharaj Urs, who was working as Assistant director of Statistics on deputation in the University was relieved of his duties and was directed to hand over charge to the Petitioner. The Petitioner took additional charge of the post of Assistant: Director of Statistics. He was assigned additional duties by order dated 23.5.1996. The additional duties in addition to work attended by him in the Statistical cell and National Adult Education. Programme was therefore not in dispute, The Petitioner submits that his basic appointment is that of Coordinator in National Adult Education Programme and the lien continues to be in the said post. He has been placed in the additional charge of the post in statistical cell, The post of Coordinator is on par with the Reader for the purposes of University Grants Commission scale of pay and therefore, the Petitioner claims that he is entitled to the benefit of revision of University Grants Commission scale of pay of the post, as and when the revision takes place and the Petitioner has drawn attention to the annual statement of the GPF account for the years 1994-95 issued by the Finance Officer of the University and the designation of the Petitioner apparently as Assistant Director. National Adult Education Programme. Though the University has implemented the University Grants Commission revision of scales of pay from 1996 onwards, in respect of the other categories and amounts were paid, the said benefit was not extended to the Petitioner, The second Respondent had addressed a letter dated 22.1.2000 to the Secretary to Government Higher Education in the matter of extension of University Grants Commission scale of pay to the non-teaching staff of the University to which details of non-teaching employees, who were holding University Grants Commission scale of pay as on 31.12.1995 was appended. The Petitioner's name was at serial No. 2 and the cadre and post held by him is that of Assistant Director, National Adult Education Programme. Therefore, this document would clinch the issue that the Petitioner was holding University Grants Commission scale of pay as on 31.12.1995 and his appointment was in the University Grants Commission scale of pay. The first Respondent in turn addressed a letter dated 04.10.2000 to the Secretary, University Grants Commission, New Delhi, requesting for early release of the grant for the period

2000-2001. It is noted that the salary drawn by the Petitioner during the year 2001-2002 was Rs. 19,333/-.

It is the Petitioner's further case that University Grants Commission revises pay scales once in ten years. In 1986, the University Grants Commission revision of pay scales were implemented by the first Respondent-University and amounts were paid to the Petitioner from 1986 January onwards. He has received emoluments in the University Grants Commission scale of pay upto June 2003. However, the second Respondent had not drawn and paid the salary for the months of July and August 2003 and this was apparently with a mala fide intention, which has caused grave hardship to the Petitioner. The Petitioner's appointment being in the year 1986 in the University Grants Commission Scale of pay, the annual increments which had fallen due in November 2002 has also not been drawn. Similarly, dearness allowance arrears provided by the Government of Karnataka for the last three years prior to the writ petition has not been sanctioned and paid to the Petitioner. Therefore, he claims that he has been denied his legitimate monetary benefits and he has been discriminated by the Respondents without any legal justification and to compound the Petitioner's hardship, by a communication dated 19.9.2003, the second Respondent intimated the Petitioner that the University Grants Commission scale of pay was withdrawn and that the Petitioner's pay was fixed in the State scale of pay of Rs. 6000-11200 and the total emoluments drawn by the Petitioner for nearly 17 years stood drastically reduced to his disadvantage and as a result, affected his conditions of service. The Petitioner would point out yet another anomaly that the Respondent could not have held that the Petitioner was not entitled to University Grants Commission scale of pay, in view of the initial appointment order issued in 1986 and appointing him in the said University Grants Commission scale of pay and further, the second Respondent was not authorised and empowered to recall and refuse the scale of pay fixed in the appointment order issued by the first Respondent. Therefore, the order at Annexure-Q, whereby his scale of pay is rated in the said scale of pay is without jurisdiction and without authority vested in the second Respondent and this would be counter to the very communication dated 22.1.2000 addressed to the Secretary to Government, Higher Education, wherein it is declared that the Petitioner has been holding University Grants Commission scale of pay as on 31.12.1995 and therefore, the Respondents were estopped from holding that the Petitioner was not entitled to University Grants Commission scale of pay. Therefore, the impugned order suffers from serious infirmities and is wholly illegal and is liable to be quashed, It is in this background that the present petition is filed raising several grounds in support of the petition and the prayer. The petition therefore seeks quashing of Annexure-Q and several directions to the Respondents to extend the benefit of revised University Grants Commission scale of pay of 1996 in terms of Government order dated- 19.11.1999 and to release and pay the salary of the Petitioner for the months July and August 2003, as per the University Grants Commission scale of pay.

3. The petition is resisted by the Respondents, who have filed statement of objections to contend that the Petitioner is not entitled to the relief and it is stated that the National Adult Education Programme was sanctioned by the University Grants Commission, as one of its programs and the funding was done by the said Commission. The Petitioner no doubt was appointed as Coordinator of National Adult Education Programme which was purely on temporary basis u/s 51(B) of the Karnataka State Universities Act, 1976, in terms of which his services could not have been continued for more than a period of six months at a time and it is for this reason that it was temporarily extended from time to time, though his services could be terminated at any time, without assigning any reasons. The order dated 11.12.1985 referred to by the Petitioner at Annexure-E to the writ petition was only a draft order and it is the case of the Respondent that it was never issued by the University and the benefit extended to the Petitioner was only on account of guidelines issued by the University Grants Commission and since the Commission was also funding the program, it was possible for the University to extend such benefit. The communication of the University Grants Commission dated 12.12.1984 would have no relevance, since it has not been issued to the Respondent - University. Insofar as the Respondent - University is concerned, the post of Coordinator was never designated as Assistant Director, National Adult Education Programme. It is further contended that any arrangements made in terms of Annexures-H and J was purely temporary and in the interest of the University. The mere indication that the Petitioner was designated as Assistant Director by itself would not confer any right on the Petitioner to claim the University Grants Commission scale of pay, as he has not been appointed as Assistant Director, at any point of time. He was not appointed to any post, as per the Cadre and Recruitment Rules of the University and therefore, his services were purely temporary and has never been regularised, at any point of time and therefore, he could not claim as regular employee of the University. The University Grants Commission scale of pay of 1996 has no coverage in respect of non-teaching staff of any University in Karnataka. Though, there is a communication to the State Government stating the names of non-teaching staff drawing University Grants Commission scale of pay, the Government has not issued any order giving coverage of revised University Grants Commission scale of pay to any non-teaching staff much less, the Petitioner. It is further stated that University Grants Commission has stopped assistance to the National Adult Education Programme from 31.3.1997. However by oversight, the Petitioner was continued to be paid in the University Grants Commission scale of pay upto May 2003, without noticing the said fact, as the funds were not provided by University with effect from 1.4.1997. It is only at the time of audit of accounts of the University, the Government Auditor having brought it to the attention of the University that the University has woken up to the situation and it was found that the Petitioner was not entitled to University Grants Commission scale of pay and therefore, he was not regular Government employee of the University and not entitled to be given University Grants Commission scale of pay. The Accountant General of the State in his turn has

also raised objection as regards according University Grants Commission scale of pay to the Petitioner, as he was not a permanent employee and did not belong to the cadre of teachers and on the further circumstance that the University Grants Commission was no longer funding the project after 31.3.1997. It is also pointed out that the extension of such benefit to the Petitioner without also extending the same to other non-teaching staff would result in a disparity, which would open the flood gates and would cause serious financial crisis to the University. It is in this background that by virtue of audit objections, the amounts of money paid to the Petitioner is sought to be recovered and in view of this serious objection raised including the objection from the Government as to the continuance of services of the Petitioner in the University, the University was compelled to take a decision in terms of Annexure-Q and therefore, there is no illegality or irregularity in the same and hence, it is contended that the petition ought to be dismissed as being without any merit.

4. Learned Counsel for the Petitioner by way of reply would submit that it is to the knowledge of the Petitioner that even pursuant to the filing of statement of objections, as late as in the year 2009, the University has addressed the Principal Secretary to Government, Higher Education in its communication dated 27.5.2009 has referred to extension of University Grants Commission scale of pay to the Petitioner herein, nominating him as Assistant Director, Bangalore University and draws attention to another communication exchanged, a copy of the letter has been placed before the Court which clearly indicates that the Registrar agrees with the case put forward by the Petitioner.

5. This is also evident from several statements in the statement of objections whereby, the University claims inadvertence in having extended the benefit of University Grants Commission scale of pay to the Petitioner notwithstanding, that he had not been recruited under the regular rules of recruitment. But however, the Petitioner was recognised as an Assistant Director in the National Adult Education Programme even after the University withdrew funding of the project and that even in the latest annual report, he continues to be described as Assistant Director. It is only by virtue of Annexure-Q that the same is sought to be denied and in view of the University even now not being averse to considering the Petitioner as being entitled to University Grants Commission scale of pay going by the communication dated 28.5.2001 addressed by the Registrar to the Principal Secretary to Government Higher Education, the Respondents shall therefore consider the case of the Petitioner favourably, if there is no dispute that he has discharged the services of Assistant Director, National Adult Education Programme, throughout the period of service and consider extending the benefit of University Grants Commission scale of pay to the Petitioner, which however shall not be a precedent, which could be claimed by any other employee of the University only on the ground that the Petitioner has been extended the said benefit. With these observations, the petition stands disposed of. Annexure-Q is quashed.