

(2016) 06 KAR CK 0094

In the Karnataka High Court

Case No : Writ Petition Nos. 6167 to 6181 of 2016 (S-RES)

Gopala Krishnegowdaa

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 29-06-2016

Acts Referred:

Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and Other Benefits Act, 2014 — Section 3

Citation : (2017) 1 KantLJ 50

Hon'ble Judges : B.S. Path, J.

Bench : Single Bench

Advocate : Sri Padmanabha R, Advocate, for the Petitioners

Final Decision : Disposed Off

Judgement

B.S. Path, J. - Learned Additional Government Advocate is directed to take notice for the respondents.

2. In these writ petitions, petitioners have sought for a direction to the respondents to count their past service from the date of their initial appointment up to the date of approval of their appointment with aid for the purpose of fixation of pay scale and other benefits in terms of the order passed by this Court in W.P. Nos. 37250 to 37254 of 2010 and connected cases disposed of on 2-12-2010 and on other dates.

3. Petitioners have contended that decision rendered in the writ petition has been confirmed by the Division Bench in W.A. No. 4788 of 2010, disposed of on 22-9-2011 which has been subsequently confirmed by the Apex Court in SLP (Civil) CC No. 7365 of 2012, dated 2-7-2012.

4. It is not in dispute that as per the judgment of this Court in W.P. Nos. 37250 to 37254 of 2010, disposed of on 2-12-2010 and other connected cases, this Court has held that teachers to whom University Grant Commission pay scale had been extended after they were admitted to grant-in-aid were entitled for

such pay scale and other benefits even for the unaided period. It is also not in dispute that the said decision rendered by this Court has been confirmed by the Apex Court. Thereafter, the State Government enacted Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and Other Benefits) Act, 2014 (Karnataka Act No. 7 of 2014). By this enactment, benefit that was available to the teachers as per the judgment rendered by this Court and confirmed by the Apex Court was sought to be taken away. Therefore, some of the petitioners presented W.P. No. 21216 of 2014 challenging the enactment and the said writ petition was allowed on 10-7-2015. Appeals have been filed against the said order in Writ Appeal No. 2476 of 2015 and connected cases. The Division Bench has granted an interim order of stay on 27-11-2015 based on the submission made by the learned Advocate General. The interim order reads as under:

"Writ Appeal No. 2476 of 2015 and Writ Appeal Nos. 3600 to 4195 of 2015 are the appeals against the judgment and order dated July 10, 2015, passed by the Hon'ble Single Judge, in relation to a batch of writ petitions pertaining to Dharwad Bench of this Court.

Learned Advocates appearing for the respondents submit that, to avoid conflicting judicial opinions, these appeals could be heard along with Writ Appeal No. 2467 of 2015 and Writ Appeal Nos. 2714 to 3455 of 2015. Writ Appeal No. 2467 of 2015 and other appeals pertain to the Principal Bench. It is suggested by the learned Advocates that let all the matters be considered by the Principal Bench of this Court.

We accept the prayer and decide to hear all the appeals together.

Issue notice on the application for condonation of delay in Writ Appeal No. 2476 of 2015.

Issue notice on the non-appearing respondents in Writ Appeal No. 2467 of 2015. Insofar as the in-service respondents are concerned, we record the statement of the learned Advocate General that the State shall go on paying their current emoluments in terms of the re-fixation, subject, however, to the result of the writ appeals. However, they are restrained from initiating any recovery proceedings for recovery of the arrears of pay. So far as the retired employees are concerned learned Advocate General submits that pension they are getting shall be continued to be paid to them. He submits that in some cases the pensions are based on the old scales and in some cases after re-fixation. The State shall be paying the pension as are paid to those retired employees as of today. So far as recovery proceedings and calculation of the pension in terms of the new regulation are concerned, the proceedings shall, however, remain stayed."

Thus, it is clear that as per the interim order, the Division Bench, after recording the submission of learned Advocate General has made it clear that State Government shall go on paying their current emoluments to the teachers in terms of re-fixation subject to the result of the writ appeals.

5. Learned Counsel appearing for the petitioners rightly submits and indeed brings to the notice of this Court the decision rendered by this Court in other writ petitions including W.P. No. 48622 of 2015 wherein several teachers had approached this Court seeking similar relief. The writ petitions have been allowed making it clear that the State shall re-fix the pay scale payable to them keeping in mind the judgment rendered in Dr. B.K. Naik's case and the interim order passed by the Division Bench on 27-11-2015.

6. In the light of the said submission and the order passed in connected W.P. No. 48622 of 2015, disposed of on 27th January, 2016, these writ petitions are also disposed of directing the State Government to re-fix the pay of the petitioners in terms of the judgment rendered in Dr. B.K. Naik's case. However, it is made clear that said re-fixation of pay scale would be subject to the decision in the writ appeals pending before this Court in W.A. No. 2476 of 2015 and other connected matters.

7. It is made clear that it is open for the respondents to verify the details of the past services rendered by the petitioners from their respective managements.

Learned Additional Government Advocate is permitted to file memo of appearance within three weeks.