
(2001) 02 AP CK 0052
In the Andhra Pradesh High Court
Case No : WA No. 123 of 2001

Government of A.P. and another

APPELLANT

Vs

D. Vittal Rao and others

RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Citation : (2001) 2 ALD 614 : (2001) 2 ALT 493

Hon'ble Judges : S.B. Sinha, C.J;S.R. Nayak, J

Bench : Division Bench

Advocate : Government Pleader for Higher Education, for the Appellant; Mr. L. Narasimha Reddy, SC for Central Government, Mr. K. Ramakanth Reddy, SC for OU and Mrs. R. Annapurna, for the Respondent

Judgement

S.B. Sinha, CJ

1. This appeal is directed against a judgment dated 27-9-2000 passed by a learned single Judge of this Court in writ petition No.16979 of 1988 whereby and whereunder the writ petition filed by the first respondent herein praying for the following reliefs was allowed.

"1. Declaring G.O. Ms. No.491, dated 16-11-1994 as illegal, arbitrary and void in view of UGC circular dated 20-2-1990, No.F1-9/1989,(CPP-I).

2. Declare the petition eligible for UGC scale of pay attached to the post of College Librarian from the date on which the petitioner qualified NET exam in view of letter dated 29-12-1997 of the Educational Officer of UGC.

3. Declare the petitioner eligible for all consequential benefits flowing out of prayer 1 and 2."

2. The 1st respondent herein was appointed as College Librarian on 26-7-1985. The said appointment was also approved by the Osmania University. He was treated as a graduate librarian. The said post came within the purview of grant-in-aid scheme with effect from 4-5-1991. The 1st respondent requested for

releasing the scales approved by the University Grants Commission. But the same had been refused by an order dated 5-7-1991. Before the learned single Judge a question arose as to whether the Government Order issued by the appellants herein being G.O. Ms. No.491, dated 16-11-1984 would prevail over the University Grants Commission's circular dated 20-2-1990. Referring to paragraph 5 of the aforementioned Government Order as also a letter dated 29-12-1997 issued by the University Grants Commission to the 1st respondent the learned single Judge was of the opinion that the 1st respondent had become eligible for UGC scales from the date he passed the NET examination.

3. The learned Government Pleader Higher Educational inter alia submitted that having regard to the fact that the aforementioned circular issued by the University Grants Commission having not been accepted by the State Government, the aforementioned G.O. Ms. No.491 will continue to hold the field.

4. It is not in dispute that the 1st respondent herein at the time of appointment to the post of librarian was possessing the following qualification.

"B.Sc., B.L.I.Sc., M.L.L.S.C.".

5. Paragraph 5 of the G.O. Ms. No.491 reads thus:

"For future recruitment to the Librarians and Physical Directors, the minimum qualifications shall be those as determined by the University Grants Commission from time to time. The selection should be made by duly constituted committee of experts. The minimum qualifications for future recruitment to the post of Librarian and Physical Directors shall be as indicated below:-

Librarians:(1) Good academic record with at least a high second class Master's degree in a subject other than Library Science.

(II) Master's degree in Library Science with first or high second class.

Director of Physical Education:

(i) and (ii) xxxx xxx xxxx".

6. The 1st respondent herein having passed the NET examination and having been appointed after the aforementioned Government Order came into force, paragraph 5 aforementioned would be applicable in his case. The circular letter dated 20-2-1990 issued by the University Grants Commission reads thus:

"In supersession of this office circular No. F.1-96/1981 (CP/MP) dated the 31st August, 1984, on the above subject, I am directed to enclose revised qualifications for recruitment to the posts of Librarian, Deputy Librarian, Assistant Librarian, College Librarian and Documentation Officer in the Universities and Colleges, consequent upon the revision of pay scales of teachers in the Universities and Colleges with effect from 1st January, 1986.

XXXX XXX XXX

3. Assistant University Librarian/College Librarian/Documentation Officer:
Rs.2,200-75-28-100-4,000.

(i) Qualifying the national level test conducted for the purposed by the UGC or any other agency approved by the UGC.

(ii) Master's Degree in Library Science/ Information Science/Documentation or an equivalent professional degree with at least fifty five per-cent marks or its equivalent grade plus a consistently good academic record;

OR

Master's degree in Arts/Science/ Commerce or equivalent degree with at least fifty five per cent marks or its equivalent grade with Bachelor's degree in Library Science/Information Science/Documentary or any equivalent professional degree with at least fifty five per cent marks or its equivalent grade plus a consistently good academic record;

xxxxx xxxx xxx".

7. It is also relevant to note that in answer to a query made by the 1st respondent herein the University Grants Commission latter in terms of its letter dated 29-12-1997 held that he having passed the NET examination, he is entitled to the aforementioned scale of pay.

8. It may be that the circular letter issued by the University Grants Commission had not been implemented by the State. The only question which arises for consideration would be that in absence of any further notification issued by the State Government, the UGC scale of pay would be applicable in case of the petitioner or not.

9. Having regard to the fact that criteria for application of the eligibility to get the UGC scale of pay having been laid down in the aforementioned Government Order itself, in our opinion, it is not necessary to issue a fresh Government Order in that regard, The submission of the learned Government Pleader for Higher Education to the effect that the aforementioned G.O. Ms. No.491 would apply in relation to all Universities is unexceptionable. But the same does not mean that a person who is entitled to the benefit thereof shall be deprived therefrom.

10. As noticed hereinbefore paragraph 5 of the aforementioned Government Order lays down the minimum qualifications for future recruitment shall be those which were determined by the University Grants Commission from time to time. Determination of such minimum qualification by the University Grants Commission from time to time would, therefore, be ipso facto applicable to those who possessed those qualifications. As the 1st respondent herein became possessed of the qualification so prescribed by the University Grants Commission, there is absolutely no reason as to why he should be deprived therefrom.

11. Paragraph 5 aforementioned must be held to be an exception to paragraph 4

whereby and whereunder the scales of pay relatable to the qualifications held by them had been fixed.

12. For the reasons aforementioned we do not find any reason to differ with the views taken by the learned single Judge. The impugned judgment is upheld and the writ appeal is dismissed. No costs.