

(2002) 02 KAR CK 0003
In the Karnataka High Court
Case No : Writ Petition No. 47345 of 2001

J.R. Rama Murthy

APPELLANT

Vs

Kannada Vishwavidyalaya, Hampi and Another

RESPONDENT

Date of Decision : 26-02-2002

Acts Referred:

Kannada University Act, 1991 — Section 2 (f)

Citation : (2002) ILR (Kar) 3150 : (2002) 3 KarLJ 623 : (2002) 2 KCCR 1185

Hon'ble Judges : H.L. Dattu, J

Bench : Single Bench

Advocate : Ravivarma Kumar, for the Appellant; M. Ashwathnarayan Reddy, for the Respondent

Judgement

H.L. Dattu, J.—Though the matter is listed in the orders list, by consent of the learned Counsels appearing for the parties to the lis, it is taken up for final hearing.

2. A Chief Librarian working in the respondent-Kannada Vishwavidyanilaya (the University" for short), situate at Hampi, Hospet, Bellary, contends in this writ petition, that he should be retired from the services of the respondent-University only after he attains 60 years of age. But, the University authorities have informed him by their communication dated 31-10-2001, that he shall retire from the services of the University on attaining the age of 58 years. The lis that requires to be decided by this Court is whether Chief Librarian should be placed on par with the teachers" of the University and he should be permitted to retire from the services of the University only after attaining the age of 60 years which is the age of superannuation for the teachers working in the University?

3. Before I advert to the fact situation, let me notice the provisions of the Kannada University Act which governs the parties to this litigation.

4. The Act is known as Kannada University Act, 1991 ("Act" for short). It has received the assent of the Chancellor of the University on 28-5-1991 and the

same is published in the Official Gazette on 21-5-1991. The object and purpose of creating this University is for development of Kannada language, culture, tradition and heritage and other allied matters. The dictionary clause in the Act provides for the definition of certain words and phrases used in the Act. Section 2(c) of the Act defines "statutes" to mean the statutes of the Universities made under the Act. Section 2(f) of the Act is relevant for the purpose of the case. Therefore, it is extracted and it is as under:

" "Teachers" means Professors, Emeritus Professors, Readers, Lecturers and other like persons as may be declared by the statutes to be teachers".

(emphasis supplied)

5. The University is established under the provisions of Section 3 of the Act.

The authorities of the University are enumerated u/s 17 of the Act.

Chapter IV of the Act provides for the Executive Council. The Chancellor of the University may constitute the Executive Council u/s 22 of the Act under this chapter.

Section 23 of the Act provides for the powers of the Executive Council which includes the powers to make statutes and amend or repeal the statutes except the first statute. The Executive Council is also authorised to frame statutes in regard to appointment of the University Lecturers, University Readers, University Professors, University Researchers and the Teachers of the University, fix their emoluments, if any, define their duties and the conditions of their service and provide for filling up of temporary vacancies.

Sub-section (18)(b) of Section 23 of the Act authorises the Executive Council to make statutes specifying the mode of appointment of administrative and other similar posts, fix their emoluments, if any, define their duties and conditions of service and provide for filling up of temporary vacancies.

Chapter VI of the Act provides for framing of the statutes by Executive Council.

Section 31 of the Act provides that the Executive Council, subject to the provisions of the Act, may frame statutes for all or any of the following matters including the classification, methods of appointment and determination of terms and conditions of teachers and other persons employed in the University. In exercise of these powers, the Executive Council has framed "statutes" known as "Karnataka Vishwavidyalaya Pariniyama".

Clause 2 of the statutes defines the expression Teachers" to mean Professors, Emeritus Professors, Readers, Lecturers and other like persons as may be declared by the Executive Council of the University. The statute also provides for pension and Gratuity payable to the retired employees of the University.

Under Clause 4 therein, it is stated that the teaching staff would retire from the services of the University after attaining the age of 60 years and the non-

teaching staff would retire on attaining the age of 58 years.

6. The Act defines the expression "teachers". It means, Professors, Emeritus Professors, Readers, Lecturers and other like persons as may be declared by the statutes to be teachers. The word "means" has a very restricted meaning and it is neither inclusive nor exhaustive. The Legislature uses the word "means" where it wants to exhaust the significance of the term defined. When the word "means" is employed in a definition, it shows that the definition is a hard and fast definition and that no other meaning can be assigned to the word or the expression defined than what is stated in the definition. The expression "means" came up for interpretation before the Apex Court in the case of Punjab Land Development and Reclamation Corporation Ltd., Chandigarh Vs. Presiding Officer, Labour Court, Chandigarh and Others, , and in that, the Court was pleased to state as under:

"The definition has used the word "means". When a statute says that a word or phrase shall "mean" not merely that it shall "include" certain things or acts, "the definition is a hard and fast definition, and no other meaning can be assigned to the expression than is put down in definition". A definition is an explicit statement of the full connotation of a term".

7. The Act and statute framed by the University provides for meaning of the expression teachers" to mean Professors, Emeritus Professors, Readers and Lecturers. The Legislature does not stop there. It also says that other like persons as may be declared by the statutes to be teachers. That declaration requires to be made only by the Executive Council which is authorised under the Act to frame statutes of the University. Keeping these factors in view, let me now notice the fact situation.

8. Petitioner was appointed as a Chief Librarian by the respondent-University by an appointment letter dated 9-7-1992. According to the petitioner, the post of Chief Librarian is a post of the Head of the Department of Library. According to him, the job of the petitioner includes teaching assignment for M.Phil classes. It is his further assertion before this Court, that during the academic year 1993-94, he did teach the students of the M.Phil classes.

9. Petitioner further states, that he is paid the salary as a "teacher" working in the University. To demonstrate this aspect of the matter, he has produced the salary certificates issued by the respondent-University. He further says that the University, by an order dated 20-1-2000, had sanctioned the U.G.C. pay scale to the petitioner and he was also paid the arrears of salary after fixation of his pay scale as envisaged under the U.G.C. Regulations.

10. The Librarians working in various Universities of Karnataka had represented to the University Grants Commission, New Delhi, to treat them as teachers". The Commission, by its communication in the month of June 1997 have stated that the post of Librarian is "academic" and "non-vocational staff. Even the State Government by its order dated 27-6-1998 on a representation made by the

Librarians working in various Universities, have treated Librarians as teachers and have stated, that the Librarians working in the University and their constituent colleges, Government colleges and aided colleges are treated as "academic" and "non-vocational staff. Keeping all these materials, petitioner contends that the post of a Librarian is a teaching post and therefore, as provided under the statutes he should be permitted to retire from the; services of the University only after attaining the age of 60 years.

11. Sri Ravivarma Kumar, learned Counsel appearing for the petitioner placing reliance on the documentary evidence produced along with the writ petition docket, submits that the University authorities had treated the post of a Librarian as that of a teaching post and therefore, petitioner cannot be asked to retire from service after attaining the age of 58 years and he should be allowed to be continued in service upto 60 years. The learned Counsel has taken trouble to produce before me a book known as Library Administration by learned author Sri S.R. Ranganathan. In that, it is stated, that the post of a Librarian is a creative work. The learned Counsel has also produced before me a book known as University Libraries in India.

12. Sri Ashwathnarayan Reddy, learned Counsel appearing for the respondent-University sought to justify the impugned order.

13. The question that requires to be considered and decided by this Court is:

Whether the post of Librarian could be equated to the post of "teachers" and whether he should be allowed to continue in service till he attains the age of 60 years, which is the date of superannuation for "teachers" working in the University?

14. As I have already stated, the Act provides for the definition of the word teacher" which means only Professors, Emeritus Professors, Readers, Lecturers and it authorises the statute making authority to declare other like persons as teacher. In the instant case, as I have already noticed, the post of a Librarian is not declared as a post of a teacher by the Executive Council by framing an appropriate statute. In the absence of an appropriate statute to that effect, in my opinion, even if the University for reasons best known to them have paid the salary to the petitioner as a teacher, that cannot override the statutory provisions. In that view of the matter, the documents produced by the petitioner in support of his case may not assist him in any manner whatsoever. In spite of all this, I did take some time to consider the controversy involved in the writ petition in view of lengthy and elaborate arguments advanced by learned Counsel for petitioner. I should definitely observe, that the arguments advanced looked very attractive but on a deeper consideration of the matter, I am of the view, that it has no merit whatsoever. The definition of the meaning of the expression u/s 2(0) of the Act and 2 of the statutes is wholly restrictive and at any rate is neither inclusive nor exhaustive. In view of the clear definition, there is no scope whatsoever to include a "Librarian" in the aforesaid definition. If any attempt is

made, it would be a case of rewriting the statutory provisions and usurping the powers of the Executive Council of the University. The Executive Council is an academic body constituted to deal with the affairs of the University. Such an academic body in its best wisdom has framed statutes taking into consideration all aspects of the matter in exercise of its powers conferred under the Act. In my opinion, it is not open to this Court to add, amend or abridge such statutes by resorting to its writ powers, particularly when the statutes are framed in accordance with the provisions of the Act and in accordance with law. If any attempt is made, in my view, it would only mean rewriting the provisions of the Act and the statutes and such an attempt is impermissible in law. In other words, petitioner stands excluded from the definition of the University "teachers" and therefore, he cannot equate himself as a University teacher and contend that he should be permitted to retire from service only after attaining the age of 60 years, which is the age of retirement prescribed for a University teacher".

15. Since I have come to the conclusion that the post of a Librarian cannot be equated to the post of "teacher" as defined under the Act, petitioner cannot contend before this Court that he should be permitted to retire from the services of the University only after attaining the age

of 60 years.

16. In the result, petition fails. Accordingly, it is rejected.