

**(2016) 01 KAR CK 0154**

**In the Karnataka High Court**

**Case No :** Writ Petition Nos. 39258-39263 of 2015 (S-RES)

K. Shantha Kumar and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 11-01-2016

**Acts Referred:**

**Citation :** (2016) 01 KAR CK 0154

**Hon'ble Judges :** R.S. Chauhan, J.

**Bench :** Single Bench

**Advocate :** Janardhana G., Advocate, for the Appellant; Prathima Honnapura, H.C.G.P., for the Respondent

**Final Decision :** Disposed off

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## **Judgement**

R.S. Chauhan, J.—1. With the consent of the learned counsel for the parties, these cases are decided at this juncture itself.

2. The petitioners have prayed that the benefit of judgment dated 10-7-2015 passed in Writ Petition No. 21216 of 2014 by this Court in the case of DR (MS) B.K. NAIK v. STATE OF KARNATAKA AND OTHERS should equally to be extended to the petitioners. As the petitioners' case is on identical footings as the case of Dr. B.K. Naik (supra).

3. The case of the petitioners is that they have been appointed as Associate Professors, or Selection Grade Librarian on different dates in the respective college. While they have been paid their salaries fixed by the University Grants Commission from the date of approval of their posts, the period between the date of appointment, and date of the approval, for the said period, they have not been granted any monetary benefit. The issue whether the faculty and non-faculty members working in the college would be entitled to the University Grants Commission pay for the said period was raised by a set of employees before this Court by filing Writ Petition Nos. 10339 of 2014, 25447 of 2010, and Writ Appeal No. 848 of 2008. All these writ petitions were allowed by this Court and the

respondents were directed to include the non-grant period also for the service benefits. The issue had traveled all the way up to the Apex Court. However, the Hon"ble Supreme Court of India was pleased to dismiss the Special Leave Petitions and to confirm the decision of this Court passed both by the learned Single Bench and the learned Division Bench.

4. But in order to overcome the judgments of this Court, the State had enacted the Karnataka Private Aided Educational Institutions Employees (Regulations of pay, pension and Other Benefits) Act, 2014, thereby denying the pay scale of University Grants Commission for the period mentioned above. The said Act was challenged by filing large numbers of writ petitions. The writ petitions were decided by common judgment dated 10-7-2015 passed in Writ Petition No. 21216 of 2014 namely in the case of Dr. B.K. Naik (supra). By the said judgment, this Court had struck down the Act as unconstitutional. This Court had further directed the Government to pay salary to the petitioners therein, and to others similarly situated persons, as was being paid before the impugned enactment. Therefore, the prayer of the petitioners before this Court is to extend the benefits of said judgment to them as well.

5. The learned counsel for the State submits that the judgment dated 10-7-2015 passed in the case of Dr. B.K. Naik (supra) has been challenged before a learned Division Bench of this Court. The relevant extract of the order dated 27-11-2015 passed by the learned Division Bench is as under:

"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".

6. According to the said order, the learned Division Bench has recorded the statement of the learned Advocate General that the State shall go on paying their current emoluments in terms of the re-fixation, subject to the result of the writ appeals.

7. Considering the fact that the learned Advocate General has made the statement before the learned Division Bench, and in the light of the judgment dated 10-7-2015 passed in the case of Dr. B.K. Naik (supra), this Court also directs the State to re-fix the pay scale payable to the petitioners. However, it should be made amply clear that the re-fixation of the pay scale would be subject to the decision of the writ appeal pending before this Court in Writ Appeal No. 2476 of 2015.

With this direction, these petitions are hereby disposed of.