
(2000) 06 KL CK 0006
In the High Court Of Kerala
Case No : O.P. No. 1996 of 1998

Karunakaran

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-06-2000

Acts Referred:

Constitution of India, 1950 — Article 114

Citation : (2000) 2 KLJ 606

Hon'ble Judges : K.A.Abdul Gafoor, J

Bench : Single Bench

Advocate : P.V. Surendranath and M.P. Vijayan, for the Appellant; K. Ramakumar and T.P. Sajan, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K.A.Abdul Gafoor

1. The petitioner is a Govt, college teacher. The petitioner has approached this court seeking a declaration that fixation of age of superannuation as 55 years is ultravires. It is also the case of the petitioner that in the light of implementation of UGC scheme, for collegiate teachers, their age of retirement shall be 60 years in tune with Ext. PI to Ext.P3. Those are the orders governing the implementation of UGC scheme for the college teachers. On implementation of such UGC scheme this aspect has come up for consideration before the Supreme Court in George v. State of Kerala (1992 (1) KLT 793). The teachers of the private college contended that, they are entitled, on implementation of the UGC scheme to continue until age of 60 years. Supreme Court did not accept that contention. It was held that the

teachers in Private college's or affiliated colleges are governed in respect of their conditions of service by regulations or rule framed by the Government (separate state of statutes)." In these circumstances the two classes of universities teachers and teachers in private colleges cannot be regarded as similar for

purposes of conditions of service as to bring the case under Art 114 of the Constitution.

Accordingly claim for continuance until 60 years in service was rejected.

2. The petitioner in this case attempted to distinguish that decision contending that, that was in respect of private college teachers where as the case of the petitioner is governed by the rules framed by govt. It is pertinent to note that the Supreme Court has considered the situation of condition of service being governed by the rules framed by Govt, as well. Whatever that be, it was clearly held by the apex court that the implementation of UGC scheme for the purpose of payment of salary to the teachers, cannot have any direct effect on the age of retirement, an aspect of conditions of service.

3. A Division Bench of this court in Joseph v. State of Kerala (1999 (3) KLT 764) also considered this aspect and held that

It is very clear that as long as superannuation remain fixed 55 years, and as the State Government has not accepted UGC recommendation to fix the age of superannuation of 60 years, private college teachers cannot claim as a matter of right that they are entitled to retire at the age of 60 years.

The age of retirement of the college teachers in Govt, sector as covered by Rule 60 (b) part IKSRR is also 55 years. They are also in such circumstances similarly placed as private college teachers dealt with in George's case and Joseph's case. Implementation of UGC scheme for Private College teachers as well as Govt. College teachers are in same respects and it does not cover the conditions of service regarding age of superannuation which is covered separately either by University Statutes or by service rules. So the petitioner cannot get direction for continuance in service beyond the age of fiftyfive years.

Original Petition therefore fails and is dismissed.