

(2015) 09 KAR CK 0018

In the Karnataka High Court

Case No : Writ Petition Nos. 109671-109680 of 2015 (S-RES)

Mahadev and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 08-09-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 09 KAR CK 0018

Hon'ble Judges : K.N. Phaneendra, J.

Bench : Single Bench

Advocate : Ravi N. Chikkaraddar, Advocate, for the Appellant; K.S. Patil, HCGP, for the Respondent

Final Decision : Allowed

Judgement

K.N. Phaneendra, J.—Learned counsel for the petitioner has filed a memo for dispensation of notice to respondent No. 3.

Notice to be issued to respondent No. 3 is dispensed with at the risk of the petitioner.

Learned Government Pleader takes notice for respondent Nos. 1 and 2.

2. The petitioners are Teaching and Non-teaching staff in the private aided institution and they were appointed in between 1985 to 1990. Their appointments are approved by the respondent authorities. They claim before the Management for extension of their service benefits and fixation of the pay from the date of entering into their services and for other consequential benefits.

3. Similarly placed some of the teaching and non-teaching staff have already approached this Court in Writ Petition Nos. 14676 of 2001, 872 of 2004, 19431 of 2005 and 5145 of 2007. In fact, this Court has passed an order considering the prayer of the teaching and non-teaching staff and those writ petitions were allowed. Questioning the said order in the said writ petitions, the Government

had preferred appeals before this Court in Writ Appeals Nos. 450 of 2007 and 848 of 2008. The said writ appeals were also dismissed upholding the order of the learned Single Judge. Special Leave Petitions were also preferred by the Government of Karnataka in SLP Nos. 22176-22186 of 2010 and vide judgment dated 21.08.2013, the Hon''ble Apex Court has also dismissed the said SLPs. After the disposal of the said SLPs, the rights of the similarly placed teaching and non-teaching staff were adjudicated and reached finality. The Government, in order to over-come the said judgment of the Hon''ble Apex Court, according to the petitioners, issued a fresh notification, which is challenged before this Court in the present writ petitions.

4. This Court had an occasion to deal with the similar matter in Writ Petition No. 21216 of 2014 and connected bunch of writ petitions, in which, the Court has considered in detail the order passed in the earlier writ petitions and also the order passed in the writ appeals as well as dismissal of the SLPs before the Hon''ble Apex Court and ultimately quashed the Government notification passed under Karnataka Act No. 7/2014 viz., Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other Benefits), Act 2014 (Karnataka Act No. 7/2014), which is also challenged before this Court in these writ petitions. The said Act has been struck-down as ultra vires and the Government was directed to comply with the directions already issued by this Court in earlier concluded proceedings. The specific order passed by this Court in the above said writ petitions is as follows:

"i) The Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other Benefits) Act, 2014 (Karnataka Act No. 07/2014) is hereby struck-down as ultra vires of Constitution of India as it is opposed to Article 14 of the Constitution of India and also encroaches upon the judicial powers of the Courts as discussed herein above.

ii) Respondent- State shall continue to pay salary or pension as the case may be, to petitioners and similarly placed persons as was being paid pursuant to its earlier orders or in other words, as it was being paid prior to impugned enactment.

OR

The respondent-State shall comply with the directions already issued by this Court extending the monetary benefits and treating the petitioners working in Private Aided Educational Institutions on par with the employees working in Government Institutions.

iii) In the event of respondent-State having recovered any amounts pursuant to the impugned enactment, same is hereby ordered to be refunded to the respective petitioner/s by the State expeditiously, at any rate within eight weeks from the date of receipt of a certified copy of this order."

5. As these writ petitions also involve similar set of facts and circumstances and

also the similar question of law, there is no need for this Court to once again deal with the same in detail, as the above said facts and legal aspects have already been dealt with by this Court in the above said writ petitions. Therefore, whatever the benefits that have been given to the similarly placed teaching and non-teaching staff, the same benefits have to be extended to the petitioners herein also. Therefore, these writ petitions also deserve to be allowed with the same observations as made by this Court in W.P. No. 21216 of 2014 and connected matters.

6. In the result, the following order is passed:--

i) The writ petitions are allowed.

ii) Respondent- State shall continue to pay salary or pension as the case may be, to petitioners and similarly placed persons as was being paid pursuant to its earlier orders or in other words, as it was being paid prior to impugned enactment.

OR

The respondent-State shall comply with the directions already issued by this Court extending the monetary benefits and treating the petitioners working in Private Aided Educational Institutions on par with the employees working in Government Institutions.

iii) In the event of respondent-State having recovered any amount/s pursuant to the impugned enactment, same is hereby ordered to be refunded to the respective petitioner/s by the State expeditiously, at any rate within eight weeks from the date of receipt of a certified copy of this order.

iv) The respondent-State is directed to implement the order passed by this Court in the writ petitions cited supra and in these writ petitions, as expeditiously as possible.

v) No order as to costs."