
(2015) 07 KAR CK 0396

In the Karnataka High Court

Case No : Writ Petition Nos. 105767-780 of 2015 [S-RES]

Mahadeva and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 10-07-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 07 KAR CK 0396

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : Mallikarjunswamy B. Hiremath, for the Appellant; Ravi V. Hosamani, A.G.A., Advocates for the Respondent

Final Decision : Disposed off

Judgement

B. Veerappa, J—The petitioners, who are claiming to be Assistant Librarians, working in various private aided schools and Pre-University Colleges, are before this court for a writ of mandamus directed the respondents to consider their representations vide Annexures "E", "E1" to "E7" and direct the respondents to implement the pay parity and extend the benefit as is done in the case of similarly placed employees, as per Annexure "C", etc.

2. It is the case of the petitioners that the petitioners have been appointed as Assistant Librarians working in various private schools and Pre-University colleges and their posts were admitted to grant by the Government. Their appointments have been approved by the State Government and they are members of the State Private High Schools and Pre-University Colleges Librarians Association. The 1st respondent made classification in respect of pay between the Librarians working in Government run schools and colleges on the one hand and aided employees on the other hand. The Association, stated supra, filed a writ petition in W.P. No. 11257/1997 seeking direction to the respondents therein to consider their representations with regard to fixation of pay as in the case of Library Assistants working in the Department of Public Library and other

Government Institutions, which came to be allowed on 10.04.2000. Thereafter, the 1st respondent, by an order dated 06.12.2000, rejected the claim of the petitioners therein and the said endorsement was challenged by the persons, who are similarly situated members of the Association like petitioners, in W.P. No. 6895/2001. The Principal Bench of this Court by its order dated 11.04.2005, quashed the impugned endorsement and remanded the matter to the 1st respondent for reconsideration. After reconsideration, the 1st respondent by an order dated 12.10.2006 has extended the said benefit to the petitioners therein. Therefore, the present petitioners made representations to the 1st respondent on 15.10.2010 through their Association to extend the benefit of pay parity to them also. The said representations were not considered and therefore, they approached this court in W.P. No. 66748/2012 and the same was rejected on technical ground that the petitioners have not submitted their representations in their individual capacity and reserved liberty to the petitioners to make individual representations to the respondents in the said writ petitions. Therefore, they approached the respondents by giving individual representations but the same were not considered. Therefore, they are before this Court for a writ of mandamus, as sought for.

3. I have heard the learned counsel for the parties to the lis.

4. Sri Mallikarjun S. Hiremath, learned counsel for the petitioners, has contended that the benefit of pay parity has been given to the similarly placed persons as that of petitioners, in view of the orders passed by the State Government as per Annexure "C" and this Court while disposing of W.P. No. 66748/2012 and connected cases on 28.01.2013, has also reserved liberty to the petitioners to make individual representations to the concerned authorities for the relief sought for, in accordance with law. Accordingly, they have approached the respondents. In spite of the individual representations made by the petitioners, till today, the respondents have not considered the same, in order to implement the order passed by the State Government extending the benefits to the petitioners. Therefore, the inaction on the part of the respondents is contrary to law and in utter violation of Article 14 of the Constitution of India. Therefore, he sought to allow the writ petition.

5. Per contra, Sri Ravi V. Hosmani, learned AGA, has contended that the petitioners are not entitled to any relief sought for, in view of the inordinate delay in approaching this Court for the relief sought for. Therefore, he sought for dismissal of the writ petition.

6. I have given my anxious consideration to the arguments advanced by the learned counsel for the parties and perused the entire writ papers.

7. It is not in dispute that the petitioners are appointed as Assistant Librarians and are working in various private schools and pre-university colleges and their posts are admitted to grant by the State Government and the appointments are also approved by the State Government. It is also not in dispute that the State

Government by an order dated 12.10.2006 extended the pay parity benefits by giving higher pay in the pay-scale applicable to the Assistant Librarians, who are holding similar posts as that of the petitioners herein. Therefore, the petitioners approached this Court in WP No. 66748/2012 and this Court by an order dated 28.01.2013 rejected the petition only on the ground that the petitioners therein have not filed any individual representations for the relief sought for, with liberty to the petitioners to make individual representations.

8. The pay parity is a fundamental right and there cannot be any delay; if the similarly situated persons are already enjoying the same benefits, the said benefits cannot be denied on the ground of delay. Admittedly, there is no delay in the present case since, the order in WP No. 66748/2012 was passed on 28.01.2013. Therefore, there is no delay as contended by learned AGA.

9. It is not in dispute that the Government extended the benefits of higher pay-scale to the similarly situated persons as that of petitioners by its order dated 12.10.2006 and based on the said Government Order, the petitioners have approached the respondents by way of individual representations. It is for the respondents to consider the same and pass orders, in accordance with law. The same has not been done in the present case.

10. Therefore, respondent Nos. 3 to 9 are directed to consider the representations of the petitioners and pass orders, taking into consideration the Government Notification/Order dated 12.10.2006, expeditiously, within a period of four months from the date of receipt of a copy of this order.

Accordingly, the writ petitions are disposed of.