

(2000) 08 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No"s. 19778 and 20383 to 20390 of 2000 (S)

Mallikarjuna and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-08-2000

Acts Referred:

University of Agricultural Sciences Act, 1963 — Section 13 (9), 8 (8)

Citation : (2000) ILR (Kar) 4515 : (2001) 2 KarLJ 398 : (2000) 4 KCCR 364 SN

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : M/s. Shetty and Hegde Associates, for the Appellant; Sri B.V. Putte Gowda, for the Respondent

Judgement

Chandrashekaraiah, J.—The petitioner entered the services of the second respondent-University on daily wages prior to 1984 as admitted by the respondents in their statement of objections. In the year 1985, the petitioners were all appointed as Field Assistants on a regular pay scale temporarily for a period of one year. Thereafter, the respondent-University by its Circular dated 25-4-1996 instead of continuing the petitioners in the post held by them asked them to work on daily wages. Accordingly, the petitioners were all continued in the service as Field Assistants on daily wages.

2. The Board of Regents in the 75th meeting resolved to absorb the petitioners in the vacancies coming under Group "C" category. But the Vice-Chancellor dissented the decision of the majority stating that the majority decision would be implemented only after seeking clarification from the Government.

The proceedings of the meeting is extracted below.-

"Item 34. Absorption of daily wage workers on regular basis as per Government Order No. DPAR 2 SLC 90, dated 6-8-1990.--The Board by majority approved absorption of the following eleven farm labourers under Group "C" category against the existing vacancies:

Sl. No.

Name/place

With effect from

1.

Abdul Sardar, Department of Dairy Science Technical, Dairy Science College, Hebbal

1-2-1992

2.

Y.N. Kenchappa, CCS, Hebbal

? do ?

3.

N. Swamy Gowda, ? do ?

? do ?

4.

Rajaiah, C.Sc. College. Hebbal

? do ?

5.

B.S. Kumar, CCS, Hebbal

28-11-1992

6.

Veeranna Alur, ? do ?

12-11-1992

7.

Mallikarjuna, ? do ?

1-12-1992

8.

Y.N. Mahadeva, ? do ?

4-4-1993

9.

R. Kempegowda, ? do ?

15-6-1993

10.

R. Basavana Gowda, ? do ?

27-5-1994

11.

S.Veeresh,? do ?

? do ?

However, the Vice-Chancellor dissented from the decision for the reason stated in the agenda and also in view of the letter No. 34:99, dated 20/21-9-1999. For these reasons, the Vice-Chancellor made it clear to the Board that the majority decision in this regard would be implemented only after seeking clarification from the Government".

The dissent of the Vice-Chancellor and not taking action to implement the resolution passed by the majority seeking clarification from the Government made the petitioners to come to this Court seeking for a direction to the respondents to implement the resolution to regularise their services.

3. Sri B.V. Putte Gowda, learned Counsel appearing for respondents 2 and 3 submits that the Vice-Chancellor has the power to withhold the implementation of the resolution seeking clarification of the Government and therefore, this Court has no power to issue any such direction to the University to implement the resolution to absorb the services of the petitioners in the existing vacancies. He neatly contended that since the petitioners have not worked for ten years as Field Assistants on daily wages, they are not entitled for regularisation as per the Government Order dated 6-8-1990.

4. The learned Counsel for the petitioners submitted that under the scheme of the Act, when the subject-matter is placed before the Board of Regents, the Board of Regents by majority passes a resolution, there is no reason for the Vice-Chancellor to postpone the implementation of the said resolution awaiting the clarification from the State Government.

5. From the proceedings I find that except Vice-Chancellor all other members of the Board of Regents resolved to absorb the service of the petitioners in the existing vacancies coming under Group "C" category. As seen from Annexure-B the petitioners were all appointed as Field Assistants on daily wages and after some time they were appointed temporarily for the period of one year. Thereafter, after the expiry of the period of one year, the services of the petitioners were continued as Field Assistants on daily wages. The University in its resolution at Item 34 considering that the petitioners have been working in the University from 1984 has resolved to absorb the services of the petitioners in the posts coming under Group "C" category.

6. The Vice-Chancellor, no doubt, as a President of the Board of Regents has got right to dissent from the decision taken by majority. But, under the provisions of the University of Agricultural Sciences Act, 1963 (for short "Act"), he has no power to withhold the implementation of the decision taken by the Board of Regents awaiting, the clarification if any from the Government. Sri Putte Gowda, learned Counsel appearing for respondents 2 and 3 has submitted that the University is subordinate to the State Government and its affairs are always controlled by the State Government and therefore the Vice-Chancellor has the power to withhold the resolution of the Board of Regents. In support of this contention he has taken me through Section 8 of the Act. u/s 8 of the Act, the Government has power to annul any proceedings of the University if it is in its opinion it is not in conformity with the Act and the statutes. In the instant case the State Government has not annulled the resolution of the University resolving to absorb the services of the petitioner in exercise of the power u/s 8(8) of the Act. Further, there is no other provision under which the State Government has got any control over the affairs of the University. Therefore, the Vice-Chancellor only because he has dissented from the decision of the majority has no power to postpone the implementation of the decision of Board of Regents awaiting the decision of the State Government.

7. The learned Counsel for the petitioners submitted that when once the Board of Regents has passed the resolution, the Vice-Chancellor is duty-bound to give effect to the said decision u/s 13(9) of the Act. Section 13(9) of the Act reads as follows.-

"Subject to the provisions of the preceding sub-sections, the Vice-Chancellor shall give effect to the orders of the Board regarding appointment, suspension and dismissal of officers, teachers and other employees of the University".

From the reading of the above said section it is clear that the Vice-Chancellor has no option except to give effect to the order passed by the Board of Regents. In the case on hand, the Board of Regents has resolved to absorb the petitioners in the posts coming under Group "C" category. This order or decision of the Board is expected to be implemented by the Vice-Chancellor under the above said section. Therefore, the Vice-Chancellor was not right in not giving effect to the decision of the Board of Regents awaiting clarification by the State Government.

8. The next contention of Mr. Putte Gowda, learned Counsel for respondents 2 and 3, is that the petitioners have not worked for a period of ten years as Field Assistants in order to get their services regularised as per the Government Order dated 6-8-1990. It is an admitted fact that the petitioners have entered the service of the University prior to 1-9-1984. What is the nature of work extracted from the petitioners prior to 1984 is not forthcoming. The very fact that the petitioners were all appointed as Field Assistants for the period of one year on the basis that they were all working on daily wages show that the petitioners were discharging the duties of the post of Field Assistants as daily wagers prior to the appointment for a period of one year temporarily as per Annexure-D. After

the expiry of this period also the petitioners were continued to work in the posts held by them on daily wages. Further from the proceedings of the resolution it is also seen that they are to be absorbed in the existing vacancies. Therefore, in my opinion, the decision taken by the Board of Regents is in order since the petitioners are entitled for regularisation as per the Government Order dated 6-8-1990.

9. Sri Putte Gowda, learned Counsel for respondents 2 and 3 relying upon the decision of this Court in W.P. No. 23892 of 1997 disposed of on 16-4-1999 B. Gangadhar Vs. State of Karnataka and Others, submitted that the Government has the power to annul the proceedings of the University and therefore, it has control over the affairs and administration of the University. It is true that u/s 8(8) of the Act, the State Government has the power to annul the proceedings of the University if it is of the opinion that it is not in conformity with the Acts and the statutes. Mere conferment of the power on the State Government under the Act to annul the proceedings of the University does not mean that the State Government has the overall control over the affairs of the University. It is not the case of the respondents that the impugned proceedings of the Board of Regents are not in conformity with the Act and statute. Further, the learned Counsel for the petitioners appearing for the University also is not able to show that the said proceedings are contrary to the Act and the statute by drawing my attention to the provisions of the Act and the statutes. The Government also has not annulled any of the impugned proceedings in exercise of the power u/s 8(8) of the Act. Therefore, the decision relied upon by the learned Counsel for respondents 2 and 3 is not of any assistance to the respondents.

10. Hence, I pass the following order:-

(i) Writ petitions are allowed;

(ii) Direction is issued to respondents 2 and 3 to implement the resolution of the Board dated 14-2-2000 in No. DUR/CCS/9/Case/99-2000 and absorb the petitioners in the existing vacancies as resolved forthwith.