
(1987) 04 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petition No's. 501 to 503 of 1987

M.R. Nagaraju

APPELLANT

Vs

Bangalore University

RESPONDENT

Date of Decision : 10-04-1987

Acts Referred:

Karnataka State Universities Act, 1976 — Section 50

Citation : (1987) ILR (Kar) 1930

Hon'ble Judges : Murlidher Rao, J

Bench : Single Bench

Advocate : M.N. Hegde, for the Appellant; C. Shivappa, for the Respondent

Final Decision : Allowed

Judgement

Murlidher Rao, J.—Petitioners 1 and 2 are working as Senior Assistants in Bangalore University and Petitioner-3 is the Superintendent in the Examination Branch of the Bangalore University. According to the Statutes, both these posts are included in Class III of Schedule C. Section 50 of the Karnataka State Universities Act, 1976 deals with the appointment of non-teaching and ministerial staff. Sub-sections (5) and (6), on the basis of which the arguments are constructed by the learned Advocate read thus :

"(5) All appointments shall be made by the Syndicate.

In case of difference between the Board and the Syndicate, the matter shall be referred to the Chancellor, whose decision shall be final.

Provided that appointments to posts, the maximum of the scale of pay of which does not exceed rupees two thousand and twenty four shall be made by the Vice-Chancellor.

(6) Notwithstanding anything in the preceding subsections, appointments to posts in the University equivalent to Group "C" and "D" posts in the State Civil Services shall be made by the Vice Chancellor in accordance with the statutes to

be framed for this purpose, and in accordance with the order issued by the State Government from time to time for reservation of posts for Scheduled Castes, Scheduled Tribes and other backward communities."

From the reading of Sub-sections (5) and (6), it is apparent that all appointments shall be made by the Syndicate and if there is any difference, the matter shall be referred to the Chancellor whose decision will be final. If the matter had rested only at Sub-section (5) of Section 50, there is no difficulty at all to hold that for all appointments in the University, irrespective of their cadre, the appointing authority is the Syndicate. But Sub-section (6) of that Section carves out certain posts for purposes of appointments. That sub-section provides that appointment to the post of Group "C" and "D" Officers shall be made by the Vice-Chancellor in accordance with the statute to be framed for this purpose and in accordance with the orders issued by the State Government from time to time for reservation of posts of Scheduled Castes, Scheduled Tribes etc. Sub-section (6) begins with non obstante clause. Therefore, to the extent Group "C" and "D" officers are concerned, the authority in Sub-section (5) gets excluded. Thus analysed, it becomes manifest that the Vice-Chancellor would be the appointing authority for Group "C" and "D" posts. The power of suspension is given to the appointing authority under Chapter XXVIII Part IV. The said provision reads thus :

"The appointing Authority may place under suspension any of the employee of the State. He shall forthwith report to the Chancellor about the suspension so made in respect of Class I and II employees."

This rule makes it clear that if the appointing authority is other than the Chancellor, in respect of Class I and II Officers, he has to report the matter to the Chancellor. This is not necessary in the case of Group "C" and "D" Officers. Therefore, so far as Group "C" and "D" Officers are concerned the power of suspension in the appointing authority is absolute. The expression "appointing authority" is defined in Part I of Chapter XX VIII :

"(a) "Appointing Authority" in relation to the service of the University employees means :

- (i) the authority empowered to make appointments to the respective classes of services ;
- (ii) the authority which appointed the University employees to such services, grades or posts, as the case may be, i.e., the Chancellor or Vice Chancellor.

2. Under Sub-section (6) of Section 50, power of appointment in respect of Group "C" and "D" posts is given to the Vice-Chancellor. It logically follows that he would be the appointing authority in terms of the definition clause and he will also be the authority to place the officials under suspension. He is not required to report the matter to the Chancellor. This policy makes it clear that in the case of Group "C" and "D" Officers, the appointing authority as well as the suspending authority is the Vice-Chancellor and his power is absolute. This being the legal

position, let me examine the validity of the order passed in this case which reads thus :

"BANGALORE UNIVERSITY

Sub : Action on the report of the Sub-Committee of the Syndicate on the affairs of the examination Branch-suspension of concerned Officers & Officials.

Ref : 1. Resolution of the Syndicate at its meeting held on 27th December 1986 (Item No. III)

UNIVERSITY ORDER No. RP/Misc/NTS/86-87 dated 8th January, 1987.

In pursuance of the resolution of the Syndicate passed at its 85th adjourned meeting held on 27th December, 1986 the following officers and officials working in the Examination Branch are kept under suspension with immediate effect pending enquiry in connection with certain allegations relating to examinations as pointed out by the sub-committee of the Syndicate appointed for the purpose.

1. Sri R. Ramanarasimhaiah, Deputy Registrar
2. Sri H. B. Subash, Assistant Registrar
3. Smt. B. P. Anasuya, Superintendent Petitioner
4. Sri S. Vageesh, Senior Assistant (do)
5. Sri M. R. Nagaraj, Senior Assistant. (do)

The Registrar (Evaluation) may take necessary action to relieve the above officers and officials forthwith and arrange to safe-guard the records and materials which are under the control of these officers and officials till substitutes are posted against these vacancies.

BY ORDER Sd/- REGISTRAR."

3. It will be seen that the suspension orders are issued in pursuance of the resolution passed by the Syndicate at its 85th adjourned meeting held on 27th December, 1986. Mr. Hegde, Counsel for the petitioners contended that the Syndicate is not the appointing authority for class "C" officers and therefore, this matter could not have been dealt with by the Syndicate, nor could be the subject-matter of the resolution of the Syndicate. In the return filed by the University, it is contended that the Vice-Chancellor happens to be the Chairman of the Syndicate and therefore, it should be understood that the resolution by the Syndicate is ratified by the Vice-Chancellor and hence the order of suspension though passed on the resolution of the Syndicate would be valid. In other words, it is contended that the action of the Vice-Chancellor may be treated as ratification of the resolution of the Syndicate. It is difficult to accept this contention. The Syndicate has no power of suspension of Class "C" Officers. It is not the appointing authority. What is void in its inception, cannot become valid by ratification. (See : K. Panduranga & Ors. v. State AIR 1965 Mys 244).

Therefore, for the reasons mentioned above, this petition is entitled to succeed. The order of suspension to the extent it concerns the petitioners is clearly illegal and cannot be sustained. Hence, I make the following:

ORDER

Writ Petitions are allowed. Impugned order Annexure "H" to the extent it concerns the petitioners is quashed. No costs.