

(2013) 03 KAR CK 0196

In the Karnataka High Court

Case No : Writ Petition No. 63218 of 2012 (S-RES)

Nagesh Annigeri

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 15-03-2013

Acts Referred:

Citation : (2013) 4 AKR 364 : (2013) 4 KarLJ 534

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

Bench : Single Bench

Advocate : Shivakumar S. Badawadagi for Smt. Sunitha P. Kalasoor, for the Appellant; Vinayak S. Kulkarni, High Court Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K.N. Keshavanarayana, J.—In this writ petition, the petitioner has sought for a writ in the nature of certiorari setting aside the endorsement issued by respondent 6 on 10-3-2012 vide Annexure-G and for a writ of mandamus to the respondents to reconsider the case of the petitioner for regularization. The contentions of the petitioner are that he passed M.Sc. in Mathematics from Karnatak University, Dharwad, in the year 1996 securing 65.30% and M. Phil., from the same University in the year 2001; that he was appointed as a guest lecturer in the Department of Mathematics in Karnatak Arts College, Dharwad, affiliated to Karnatak University and continued as such till today, and thus, he has completed more than eleven years of service; that, his services were not regularised inspite of the law laid down by the Apex Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, he submitted a representation to the Registrar of Karnatak University, Dharwad, for seeking regularisation of his services as lecturer. When the said representation was not considered, he approached this Court in a writ petition seeking a direction to the respondents to consider his representation. This Court, considering the writ petition filed by the petitioner and similarly placed persons, by order dated

25-2-2011 in W.P. Nos. 63264 to 63278 of 2009 and connected matters, in the light of the law laid down by the Apex Court in Umadevi's case and also the clarification made by the Apex Court in State of Karnataka and Others Vs. M.L. Kesari and Others, directed the authorities to consider the representation filed by the petitioners therein and pass appropriate orders.

2. It is further contended that pursuant to the said directions, the University without applying its mind, rejected the prayer of the petitioner and similarly placed persons, on the ground that he was not duly qualified on the day when he entered into the service. The said endorsement/communication issued to the petitioner was questioned before this Court in W.P. No. 63939 of 2011 and connected matters, which came to be allowed by order dated 2-1-2012, directing the authorities to reconsider the representation made by the petitioner in the light of law laid down by the Apex Court in the above referred cases. Thereafter, on consideration of representation, the University issued a communication as per Annexure-G stating that the petitioner was not duly qualified to be appointed as a Lecturer on the date of alleged appointment and that he has not completed ten years of service as held in the decision in Umadevi's case. Therefore, he is not entitled to be regularised. Aggrieved by the said communication, the petitioner has presented this writ petition.

3. I have heard the learned Counsel appearing for the petitioner and also the Counsel appearing for the respondents and perused the petition as well as documents.

4. Of course, from the documents produced by the petitioner, it is noticed that he appears to have been worked as a guest lecturer in the Department of Mathematics in Karnatak Arts College, Dharwad, affiliated to Karnatak University from the academic year 2000-01. As noticed, the services of the petitioner was only as a guest lecturer and not even as a temporary lecturer. Even according to the marks-card produced by the petitioner, at Annexure-A4, he has passed M. Phil., Part II during the examination held in March 2001. Except producing the marks card of M. Phil., Part II, the petitioner has not produced the degree certificate issued by the University to show as to when he acquired M. Phil, degree which is a necessary qualification for being appointed as a lecturer. If according to the petitioner, he was appointed as a guest lecturer during the academic year 2000-01, from his own showing, the petitioner had not acquired the requisite qualification for being appointed as a lecturer at the time of his initial appointment as a guest lecturer during the academic year 2000-01. One of the condition laid down in Umadevi's case and M.L. Kesari's case, at the time of initial appointment, person so appointed should be qualified and eligible. The second condition is that he should have completed ten years of continuous service. In the case on hand, even according to the petitioner, he was appointed during the academic year 2000-01 and he said to have passed M. Phil, during March 2001. Therefore, the period of ten years get completed during the academic year 2011-12. However, when the representation was made on

13-2-2011, he had not completed 10 years of service from the date of acquiring the requisite qualification. Having regard to the facts and circumstances of the case, the University is justified in holding that the petitioner is not entitled for regularisation into service. Therefore, I find no infirmity in the decision of the University holding that the petitioner is not entitled to be regularised. Therefore, there is no merit in this petition. Accordingly, the petition is dismissed.