

(2015) 07 KAR CK 0404

In the Karnataka High Court

Case No : Writ Petition 105148/14 and W.P. 112414-427/14 (S-RES)

Neelapgouda and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 03-07-2015

Acts Referred:

Citation : (2015) 07 KAR CK 0404

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : Sunil S. Desai, for the Appellant; Ravi V. Hosamani, A.G.A. and N.M. Hanasi, Advocates for the Respondent

Final Decision : Disposed off

Judgement

B. Veerappa, J—All these petitioners are before this Court seeking a writ of mandamus to the respondents to release salary of the petitioners from 01.05.2011 to 30.11.2011 along with 18% interest, contending that the petitioners 1 to 8 and 11 to 15 were working as Associate Professors in the Government Aided Institutions and the petitioners 9 and 10 were working as Directors of Physical Education in the Government Aided institutions. The petitioners have opted for the UGC scheme and hence service conditions are governed by the UGC regulations and since they have not been extended with benefit of enhancement of age of superannuation from 60 to 62 years on par with teachers of University colleges and further their claim of enhancement of age of superannuation to 65 years as per UGC regulations, they made request to the respondents to 65 years as per UGC regulations, they made request to the respondents for extending the benefits. The respondents by the endorsement rejected the request of petitioners along with similarly situated persons. Aggrieved by the said action of the respondents, some of the petitioners and others filed writ petitions WP. Nos. 13449-453/11 and connected petitions, before this court and this Court granted interim order directing respondents to continue the service of the petitioners till the age of 62 years. In pursuance of the interim

order passed by this Court, all the petitioners were continued to discharge their duties. In the meanwhile, the writ petitions filed by some of the petitioners were allowed by common order dated 22.6.2011 and quashed the impugned orders made therein denying the age of superannuation to 65 years and directed the respondents to continue the petitioners in service in the post held by them as on the date of the petitions or immediately prior thereto, till they attain the age of superannuation at 65 years, in accordance with the UGC regulations, 2010, with all consequential benefits.

2. Aggrieved by the said order, the respondents/State filed writ appeals in W.A. Nos. 5670/11 & connected writ appeals. The Division Bench of this Court after considering the entire material on record, by its order dated 9.11.2011 has allowed the writ appeals and set aside the order passed by the learned Single Judge and held that the revised pay scales prescribed by the UGC is mandatory on all the State Governments and increase of age of superannuation was optional and only recommendatory. Therefore, whatever be the wisdom behind the reluctance of the Government of Karnataka for adherence to the suggested age of superannuation, it is beyond our province to issue a writ for its observance. While passing such order, the Division Bench by its order dated 9.11.2011 has stayed the operation of the impugned judgment till 30.11.2011. Aggrieved by the said order passed by the Division Bench, the petitioners and others filed in SLP. Civil. 18766-18782/2010 which were subsequently converted in C.A. Nos. 5527-5543/2013, and the Apex Court after considering the entire material on record by its order dated 17.7.2013, has affirmed the order passed by the Division Bench of this Court, which reads as under:

"67. We, therefore, see no reason to interfere with the impugned judgment and order of the Division Bench of the High Court in all these matters in the light of the various submissions made on behalf of the respective parties. The several appeals, writ petitions and the Transferred Case, which involve the same questions as considered in this batch of cases, are all dismissed. However, the Appeals filed by the State of Uttarakhand and Civil Appeals arising out of SLP ? Nos. 6724, 13747 and 14676 of 2012 are allowed. As far as the Transfer Petition Nos. 1062-1068/2012 are concerned, the same are allowed and the Transferred Cases are dismissed. The Contempt Petitions are disposed of by virtue of this judgment. However, persons who have continued to work on the basis of the interim orders passed by this Court or any other Court, shall not be denied the benefit of service during the said period. The Appeals and Petitions having been dismissed, both the State Authorities and the Central Authorities will be at liberty to work out their remedies in accordance with law."

3. In pursuance of the observation made by the Hon"ble Supreme Court as stated above, the petitioners filed representations vide Annexures-F to F. 5 before the State Government requesting the Government to release the salary for the period which they have worked on the strength of the order passed by the learned Single Judge of this Court, which period was ordered to be reckoned

for the purpose of service benefits and pension by the Hon''ble Supreme Court. The said representations have not been considered by the respondents and therefore, they have approached this Court for the relief sought for.

4. I have heard the learned Counsel for the parties to the lis.

5. Learned Counsel for the petitioners Sri S.S. Desai, has contended that the petitioners have discharged their duties from 01.05.2011 to 30.11.2011 in pursuance of the interim order passed by the learned Single Judge of this Court and no salary was paid to them for the said period in spite of the observations made by the Hon''ble Supreme Court that the persons who have continued to work on the basis of the interim order passed by the learned Single Judge of this Court or any other Court shall not be denied the benefit of service and pension for the said period. Therefore, the learned Counsel for petitioners has contended that it is the duty of the 1st respondent to consider the representations and pass orders in accordance with law.

6. Per contra, learned AGA representing respondents 1 to 3 strenuously contended that the petitioners were continued in service on the basis of the interim order passed by the learned Single Judge of this Court and ultimately the Division Bench of this Court has set aside the order passed by the learned Single Judge holding that increase of age of superannuation under UGC regulations was purely optional and only recommendatory on all State Governments and it is beyond the province of the High Court to issue a writ for its observances. However, in view of the observation made by the Hon''ble Supreme Court that the persons who have continued to work on the basis of interim orders passed by this Court shall not be denied the benefit of service for the said period, the petitioners were entitled to benefit of service only and not the salary. Therefore, he sought to dismiss the writ petitions.

7. Sri. S.S. Niranjana, learned Counsel appearing for Sri. M.B. Hiremath, learned Counsel for respondents 7 and 9, Sri. N.M. Hansi, learned Counsel for respondent-11 and Sri. Subhash B. Sankad, learned Counsel appearing for respondent-12 have jointly requested the Court to direct the respondent-1/State Government to consider the representations of the petitioners in accordance with law and in terms of the order passed by the Hon''ble Supreme Court.

8. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material on record.

9. It is not in dispute that the petitioners were working as Associate Professors in the Government Aided institutions and they were continued to work till they attain the age of superannuation from 60 to 62 years on par with teachers of University Colleges and their services were further continued beyond 62 years on the basis of the interim order passed by the learned Single Judge of this Court till the said order was reversed by the Division Bench of this Court, and was confirmed by the Hon''ble Supreme Court. While confirming the order passed by the Division Bench of this Court the Supreme Court has ruled that the persons

who have continued to work on the basis of the interim order passed by the learned Single of this Court shall not be denied the benefit of service during the said period. In pursuance of the said order, the petitioners have made representations before the State Government as long back as in January to March 2014, and the State Government has to take a decision and pass orders in accordance with law. The same has not been done till today. Therefore, it is appropriate to direct the 1st respondent State Government to consider the representations of the petitioners herein in terms of the observations made by the Hon''ble Supreme Court as stated above and pass orders in accordance with law.

10. In view of the aforesaid reasons, the 1st respondent State Government is directed to consider the representations of the petitioners herein in terms of the observations made by the Hon''ble Supreme Court as stated above and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

The writ petitions are disposed of with the above direction.