(2015) 09 KAR CK 0190

In the Karnataka High Court

Case No : Writ Petition No. 109459/2015 (S-RES)

Pralhadagouda APPELLANT

Vs

The State of Karnataka and Others RESPONDENT

Date of Decision : 07-09-2015

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2015) 09 KAR CK 0190

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

Bench : Single Bench

Advocate : Ravi N. Chikkaradder, Advocate, for the Appellant; K. Vidyavati, AGA, for the Respondent

Final Decision : Allowed

Judgement

K.N. Phaneendra, J.—The petitioner in the above petition has been working a Teacher in a Private Aided Kannada Medium High School at Manteshnagar, Belagavi Taluk and District, as he being appointed as such vide appointment order produced at Annexure-A. He submits that subsequent to the issuance of the appointment order in favour of the petitioner, his post has been approved by the respondent-authority after some time. In pursuance of the said approval, he has been recognized in his post. Therefore, the petitioner claims before the Management for extension of his service benefits and fixation of the pay from the date of his entering into the services and for other consequential benefits.

2. Similarly placed some of the teaching and non-teaching staff have already approached this court in Writ Petition Nos. 14676/2001, 872/2004, 19431/2005 and 5145/2007. In fact, this court has passed an order considering the said prayer of the teaching and non-teaching staff and those writ petitions were allowed. Questioning the said order in the said writ petitions, the Government has preferred writ appeals before this court in W.A. Nos. 450/2007 and 848/2008. The said writ appeals were also dismissed upholding the order of the learned Single Judge. Special Leave Petitions were also preferred by the

Government of Karnataka in SLP Nos. 22176-22186/2010 and vide judgment dated 21.08.2013, the Hon''ble Apex Court has also dismissed the said SLPs. After the disposal of the said SLPs, the rights of the similarly placed teaching and non-teaching staff were adjudicated and it reached finality. The Government in order to over-come the said judgment of the Hon''ble Apex Court, according to the petitioner, issued a fresh notification, which is challenged before this court in the present writ petition.

3. This court had an occasion to deal with the similar matter in Writ Petition No. 21216/2014 and connected bunch of writ petitions, in which, the court has considered in detail the order passed in the earlier writ petitions and also the order passed in the writ appeals as well as dismissal of the SLPs before the Hon''ble Apex Court and ultimately, it quashed the Government notification passed under Karnataka Act No. 7/2014 viz., Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other Benefits), Act 2014 (Karnataka Act No. 7/2014), which is also challenged before this court in these writ petitions. The said Act has been struck-down as ultra vires and the Government was directed to comply with the directions already issued by this court in earlier concluded proceedings. The specific order passed by this court in the above said writ petitions is as follows.

"i) The Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other Benefits) Act, 2014 (Karnataka Act No. 07/2014) is hereby struck-down as ultra vires of Constitution of India as it is opposed to Article 14 of the Constitution of India and also encroaches upon the judicial powers of the Courts as discussed herein above.

ii) Respondent- State shall continue to pay salary or pension as the case may be, to petitioners and similarly placed persons as was being paid pursuant to its earlier orders or in other words, as it was being paid prior to impugned enactment.

OR

The respondent-State shall comply with the directions already issued by this Court extending the monetary benefits and treating the petitioners working in Private Aided Educational Institutions on par with the employees working in Government Institutions.

iii) In the event of respondent-State having recovered any amount/s pursuant to the impugned enactment, same is hereby ordered to be refunded to the respective petitioner/s by the State expeditiously, at any rate within eight weeks from the date of receipt of a certified copy of this order."

4. As this writ petition also involved similar set of facts and circumstances and also the similar question of law, there is no need for this court to once again deal with the same in detail as the above said facts and legal aspects already been dealt with by this court in the above said writ petitions. Therefore, whatever the

benefits that have been given to the similarly placed teaching and non-teaching staff as that of the petitioner, the same benefits have to be extended to this petitioner also. Therefore, this writ petition also deserves to be allowed with the same observations made by this court in earlier petitions in W.P. No. 21216/2014 and connected matters.

5. In the result, the following order is passed:--

"ORDER

i) The writ petition is allowed.

ii) Respondent- State shall continue to pay salary or pension as the case may be, to petitioners and similarly placed persons as was being paid pursuant to its earlier orders or in other words, as it was being paid prior to impugned enactment.

OR

The respondent-State shall comply with the directions already issued by this Court extending the monetary benefits and treating the petitioners working in Private Aided Educational Institutions on par with the employees working in Government Institutions.

iii) In the event of respondent-State having recovered any amount/s pursuant to the impugned enactment, same is hereby ordered to be refunded to the respective petitioner/s by the State expeditiously, at any rate within eight weeks from the date of receipt of a certified copy of this order.

iv) The respondent-State is directed to implement the order passed by this court in the writ petitions cited supra and in these writ petitions, as expeditiously as possible.

v) No order as to costs.