

**(2000) 07 KAR CK 0061**

**In the Karnataka High Court**

**Case No :** Writ Appeal No. 5921 of 1999 connected with Writ Appeal Nos. 6026 to 6030 of 1999 and 3552 of 2000

P.T. Ramasapalya and Others

APPELLANT

Vs

Karnataka Regional Engineering College Society, Suratkal,  
Mangalore and Others

RESPONDENT

**Date of Decision :** 11-07-2000

**Acts Referred:**

Karnataka High Court Act, 1961 — Section 4

**Citation :** (2000) 7 KarLJ 571

**Hon'ble Judges :** Mrs. Manjula Chellur, J;G. C. Bharuka, J

## **Judgement**

G.C. Bharuka, J.-The appellants herein had filed the writ petitions inter alia questioning the wisdom of the first respondent-Karnataka Regional Engineering College Society of not raising the superannuation age of the non-teaching staff to 60 years as was done in the case of teaching staff on the ground of violation of the right of equality as envisaged under Articles 14 and 16 of the Constitution of India. Since the said relief was refused by the learned Single Judge therefore these intra-Court appeals have been preferred.

2. The first respondent is a Society registered under the Karnataka Societies Registration Act, 1960. It has established the Karnataka Regional Engineering College (second respondent). The appellants herein are working as non-teaching staff in the said college. It is not disputed that the cadre of the teaching and non-teaching staff of the college are distinct and separate.

3. The Karnataka Regional Engineering College, Suratkal Recruitment and Service Rules ("the Rules" in short), framed by the respondent-Society, is applicable to administrative, technical, ministerial and Class IV staff of the College. Rule 3 of the Rules specifically states that the Board of Governors of the Society reserves to itself the right of modifying the rules from time to time. It is a matter of record that the Board of the Governors by its resolution dated 9-4-1973 (Annexure-A) had amended Rule 7(iii) by raising the age of

superannuation from 58 years to 60 years in respect of Principal, Professors, Assistant Professors, Workshop Superintendent and Lecturers/Assistant Lecturers who fell in the category of academic staff.

4. The appellants herein have claimed similar increase in their superannuation of age of pleading that non-raising of the same will amount to hostile discrimination. In support of the said contention Ms. Vidya, learned Counsel appearing for the appellants, has placed reliance on the decision of the Supreme Court in the case of *Osmania University v V.S. Muthurangam and Others*, AIR 1997 SC 2758. This case is clearly of no help to the appellants as also found by the learned Single Judge for the simple reason that in this case the Supreme Court had directed for bringing a parity in the age of superannuation in teaching and non-teaching staff because of the mandate contained in Section 38(1) of the *Osmania University Act, 1959*, which inter alia mandated that the conditions of service relating to salaried officers of the University shall as far as possible be uniform except in respect of the salaries payable to them. The Supreme Court had found that there was no impracticability in maintaining uniformity in respect of all salaried staff of the University in respect of the age of superannuation. But there is no such compelling statutory mandate available in respect of the respondent-Society.

5. On the other hand the issue involved in the present appeals is squarely covered by the law declared by the Supreme Court in the case of *State of West Bengal v Gopal Chandra Paul and Others*, AIR 1996 SC 547, wherein the claim of the non-teaching staff of the Government School of Education Department of West Bengal to raise the age of superannuation to 60 years, as available to the teaching staff, was negated by holding that they formed two distincts and independent services. Similar view was even earlier taken by the Apex Court in the case of *Tejinder Singh v M/s. Bharat Petroleum Corporation Limited*, AIR 1987 SC 51.

6. For the aforesaid reasons, in our opinion, no interference is called for with the well-reasoned order passed by the learned Single Judge. The appeals are accordingly dismissed. Anyhow, it is clarified that the dismissal of these appeals will not come in the way of the concerned authorities to consider the claim of the appellants regarding raising of their superannuation age as well in accordance with law.