
(2015) 11 KAR CK 0203
In the Karnataka High Court
Case No : Writ Petition No. 200679/2015 (S-RES)

Sharana Basaveshwar

APPELLANT

Vs

Karnataka State Human Right Commission and Others

RESPONDENT

Date of Decision : 05-11-2015

Acts Referred:

Protection of Human Rights Act, 1993 — Section 36

Citation : (2015) 11 KAR CK 0203

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : Shivakumar Kalloor, Advocate, for the Appellant; Manvendra Reddy, Advocate, for the Respondent

Final Decision : Allowed

Judgement

A.S. Bopanna, J.—Petitioner is before this Court assailing the order dated 17.11.2014 impugned at Annexure-D to the petition.

2. The order impugned is passed by the first respondent directing the third respondent - Government to hold an enquiry into the affairs of the petitioner's institution and eliminate all bad elements who indulge in work place harassment and thereby, uphold the secular values of the Indian Republic. The petitioner claiming to be aggrieved by the same is before this Court.

3. The order impugned has been passed by the first respondent at the instance of the second respondent herein. The fact that the second respondent was earlier employed in the institution being run by the petitioner is not in dispute. The issue relating to employment is being agitated between the petitioner and the second respondent in the appropriate forum. The contention of the petitioner is however that even if that be the position the first respondent could not have entertained the matter in the manner in which it has presently done and therefore, the order is liable to be quashed.

4. Respondent Nos. 1 and 2 have filed their separate objection statement. The

learned counsel for the first respondent essentially referring to the provisions contained in the Protection of Human Rights Act (for short "the Act") has sought to indicate that the first respondent merely on taking note of the complaint made by the second respondent has directed consideration in accordance with law by the third respondent. Therefore, recommendation as has been made by the first respondent would not call for interference. The second respondent with regard to this aspect of the matter has once again referred to the manner in which the second respondent and certain other persons were employed and without there being termination in accordance with law the, second respondent has been discontinued despite similarly placed persons being continued in service and in that view, right of the second respondent has been affected is the contention. It is also the case that, in that light, since the second respondent has raised the said issue, the first respondent has directed the third respondent to take into consideration all these aspects of the matter since the petitioner- institution has not been conducting themselves in accordance with law. It is therefore contended on behalf of the second respondent that the order impugned does not call for interference.

5. Having taken note of the rival pleadings and having heard the learned counsel appearing for the parties, I have perused the petition papers.

6. At the outset, though the first respondent seek to refer to the provisions of the Act and from the regulations of the Karnataka State Human Rights Regulations (for short, the regulations"), what cannot be lost sight is that, in Regulation 9(e) it is provided that complaint before the first respondent shall ordinarily be untenable in the matters relating to service or industrial disputes. Though the learned counsel for the petitioner also referred to Section 36 of the Act to contend that the complaint was beyond the time and it was filed belatedly, the said aspect need not be gone into at this juncture in view of the regulation contained in regulation 9(e) noticed above and in that light, nature of dispute that had arisen between the petitioner and the second respondent as indicated above.

7. The fact that the second respondent was employed in the institution run by the petitioner is not in dispute. The Principal Secretary at the first instance has passed an order adverse to the interest of the petitioner. Therefore, the petitioner was before this Court in W.P. Nos. 83891-83892/2009. This Court on setting aside the order had remitted the matter for reconsideration by the first respondent therein. The said proceedings had arisen in a circumstance where the second respondent herein having worked as a part-time lecturer and having claimed to discharge his services from 1989-2000 was seeking regularization of his services in terms of the direction said to have issued by the Hon"ble Supreme Court. Though the second respondent contends that certain similarly placed employees had been regularized but the second respondent was not continued and was unceremoniously removed from the services without there being any valid termination, they are all issues which would arise for consideration in an

appropriate proceedings.

8. Hence, to the said extent, perusal of the order dated 06.04.2011 in W.P. Nos. 83891-83892/2009 is concerned rights of the parties stand regulated pursuant to the proceedings that would arise therein. Presently, in the instant petition, petitioner has filed a memo dated 11.09.2015 enclosing thereto the order dated 28.05.2015 passed by the Principal Secretary in Revision Petition No. 12/2008. If the said order is taken into consideration, it is seen that insofar as right as claimed by the second respondent with regard to the regularization based on the directions said to have been issued by the Hon''ble Supreme Court, the Principal Secretary has held that the regularization as sought by the second respondent would not be justified and in that view the revision petition has been allowed.

9. The learned counsel for the second respondent would however submit that the said order dated 28.05.2015 has been assailed in the writ petition filed before this Court. Therefore, insofar as right as claimed by the second respondent with regard to the regularization and as to whether the authorities have considered the same in accordance with law and as to whether rejection of the request of the second respondent by the petitioner would stand justified are all issues which will be determined in the appropriate proceedings. In that background, the matter which requires consideration herein is as to whether when the second respondent has been litigating with regard to his service conditions and entitlement to be continued in service is being considered in accordance with law by the statutory authorities provided under the relevant Act, whether for a similar reason when the said employee makes complaint to the first respondent not only on his behalf but alleging certain irregularities by the petitioner herein, whether that in itself was sufficient for the first respondent to entertain such complaint and direct enquiry is the aspect to be taken note here.

10. When from the above discussion, it is seen that though the petitioner and the second respondent have been litigating for a long time with regard to the services as claimed by the second respondent, in my opinion, those are aspects which is to be taken note to come to a conclusion that in the present circumstance the first respondent could not have directed another enquiry by the third respondent once over again since the very aspect relating to the validity of the claim for regularization of the services of the second respondent is an aspect which is being considered by the Principal Secretary-third respondent in the revision petition which had been remitted by this Court for re-consideration. Therefore, authorities of the same department cannot look into the matter in two different perspectives one while taking into consideration recommendation of the first respondent and the other while considering the aspect under the relevant Act relating to the services as claimed. Therefore, I am of the considered opinion that the order impugned dated 17.11.2014 cannot be sustained. The same is accordingly quashed.

The petition is accordingly allowed.