

(2016) 01 KAR CK 0013

In the Karnataka High Court

Case No : Writ Petition Nos. 109167-181 of 2014 [S-RES]

Shivaputrappa Verrappa Itagi and others

APPELLANT

Vs

Deputy Director for Public Instructions Diet Building, KCD
Road, Dharwad and others

RESPONDENT

Date of Decision : 04-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 300A
Karnataka Civil Services Rules, 1958 — Rule 247A(1)

Citation : (2016) 2 SLR 460

Hon'ble Judges : B.S. Patil, J.

Bench : Single Bench

Advocate : G.I. Gachchinamath and S.G. Hiremath, Advocates, for the Appellant; M. Kumar, AGA, for the Respondent

Final Decision : Disposed Off

Judgement

B.S. Patil, J.—Fifteen writ petitioners have joined together to file these joint writ petitions seeking a writ of mandamus against the respondents / Deputy Director of Public Instructions of Dharwad, Haveri and Ballari, to consider their representations submitted vide Annexures "B" to "B1", "C" to "C1" and "D" to "D1".

2. It is the case of petitioners that they were appointed as Teachers in private aided High Schools run by different managements. According to them, they were recruited after the age of 30 years and having served till they attained the age of superannuation, they have all retired from service. Their contention is that as per the provisions contained in Rule 247-A(V) of the Karnataka Civil Services Rules, they are entitled for addition to their qualifying service, a period equal to the difference between the age on their date of birth immediately preceding the date of direct recruitment and thirty years, subject to a maximum of two years, as has been provided in respect of Government employees.

3. Learned counsel for petitioners submits that all these petitioners had earlier

filed "Writ Petition Nos.65234-245 of 2010 seeking similar relief and this Court, vide order dated 23.07.2012, disposed of the writ petitions, observing that petitioners were required to give full particulars of their service by submitting fresh representations. Accordingly, petitioners have submitted fresh representations to the respective Deputy Directors of Public Instructions/ Respondents 1 to 3 herein, re-iterating their requests for extending the benefits contained under Rule 247-A(1) of Karnataka Civil Services Rules. But, the representations submitted by petitioners have not been considered. Hence, they have approached this Court seeking a writ of mandamus.

4. I have heard the learned counsel for petitioners and the learned AGA.

5. It is contended by learned AGA that decision to be taken in the matter is not by Deputy Directors of Public Instructions, but has to be by the State Government. He points out that State Government has not been made party and representations have not been addressed to the State Government.

6. Per contra, learned counsel for petitioners submits that there cannot be any discrimination in the matter of extending pensionary benefits to the employees of private aided institutions, compared to Government employees and therefore, petitioners are entitled for consideration of their representations, in accordance with law. He further points out that if it is the State Government which has to take a decision in the matter, concerned Deputy Directors of Public Instructions / respondents 1 to 3 herein, to whom representations have been addressed, may be directed to forward those representations to State Government and the State Government in turn may be asked to consider representations, as otherwise petitioners would be forced to again make another set of representations to State Government and again approach this Court.

7. I find considerable substance in the contention urged by learned counsel for petitioners. It is for the respective Deputy Directors of Public Instructions I respondents 1 to 3 herein, who are required to find out whether petitioners have indeed worked in their respective institutions as asserted by them and then forward the representations with their comments to the State Government, whereupon State Government shall consider the representations in accordance with law, within a specified period. Such a direction is required to be issued in these cases to avoid multiplicity of litigation, by forcing the petitioners to give another set of representations to the State Government. Hence, I pass the following order.

ORDER

(I) Respondents 1 to 3 are directed to examine the representations submitted by petitioners and forward the same to the Secretary, Department of Education (Primary and Secondary), Government of Karnataka, within two months from the date of receipt of a copy of this order.

(II) The Secretary, Department of Education (Primary and Secondary),

Government of Karnataka, shall consider the representations, in accordance with law and pass appropriate orders within a period of four months from the date of receipt of representations, forwarded by the respective Deputy Directors of Public Instructions / respondents 1 to 3 herein. The order passed and decision taken shall be communicated to petitioners herein.

8. Accordingly, these writ petitions are disposed of.