

(1998) 09 KAR CK 0072
In the Karnataka High Court
Case No : Writ Petition No. 18250 of 1998

Smt. Annapoorna

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 03-09-1998

Acts Referred:

Karnataka Education Act, 1983 — Section 133, 146

Citation : (1998) 6 KarLJ 535

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Sri R.H. Chandangoudar, for the Appellant; Smt. V. Viduya, High Court Government Pleader, for the Respondent

Judgement

1. Heard Sri R.H. Chandangoudar for the petitioner and Mrs. Vidya, learned High Court Government Pleader, for respondent 1 and respondent 2 and third respondent-Institution has remained absent despite issue of notice through registered post.

2. According to the petitioner she had been appointed as a lecturer in Geography in the third respondent-Institution through an appointment letter dated 6-11-1992 (Annexure-B) issued by the General Secretary of the Institution. It appears that subsequent to the said appointment of the petitioner, the management of the Institution had requested the respondents 1 and 2 for approval of the petitioner's appointment for the purpose of salary grant under the provisions of the Grant-in-Aid Code. But the same has been rejected by the Government under its letter dated 24-4-1997 (Annexure-K) and dated 7-1-1998 (Annexure-M) on the ground that the post on which the petitioner had been appointed was reserved for SC/ST candidate. Under the above circumstances the present writ petition was filed on the following prayers;

"(a) Quash the impugned endorsement dated 24-4-1997 No. ED/10/UCP of 1997 vide Annexure-K and endorsement dated 7-1-1998 No. ED/10/UPC/97 vide Annexure-M issued by respondent 1 by issuing a writ of certiorari or any other

writ or direction.

(b) Direct the respondents to approve the appointment of the petitioner as lecturer to the posts of Geography subject in respondent 3 college with salary grant w.e.f. 11-11-1992 i.e., from the date of joining service with all consequential benefits including back salary to meet the ends of justice".

3. In my opinion, so far as the appointment of the petitioner is concerned, it has been given by the third respondent which is a private educational institution. The appointment is governed by the provisions of the Karnataka Private Educational Institutions (Discipline and Control) Rules, 1978 as saved by sub-section (3) of Section 146 of the Karnataka Education Act, 1983. It is not a statutory requirement that there should be an approval of any Government authority for appointing teachers/lecturers in private educational institutions. Further the teachers like the petitioner, who are duly appointed by the management, are entitled to their scale of pay admissible to the Government teachers from the management of such institutions who had appointed them. This is a legal and statutory right which can be got enforced by moving the Government u/s 133 of the Karnataka Education Act, 1983. Whether the management of the institution is able to get salary grant from the Government against the post to which the petitioner had been appointed should not be a matter of concern for the petitioner. It can at best a matter of concern for the management, since petitioner's right to get the salary is fully protected. All these legal aspects have been dealt with by me in greater detail in H.B. Kotresh Vs. State of Karnataka and Others, . Accordingly it is held that the petitioner is not entitled to adjudication of her claim in writ jurisdiction without first approaching the State Government.

4. Writ petition is accordingly dismissed. However, liberty is reserved to the petitioner to move the Government if the situation so warrants for ensuring the payment of salary.