

(2011) 09 KAR CK 0057
In the Karnataka High Court
Case No : Writ Petition No. 10582 of 2006

Smt. M.R. Gangambika

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0057

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : H. Kantha Raja, for the Appellant; S. Nagaraja, for R6 and R.B. Sathyanarayana Singh, HCGP for R1-5, for the Respondent

Judgement

Huluvadi G. Ramesh, J.—Petitioner herein was working as a Nursery Teacher in the 6th Respondent-Institution since 1982 and the said institution was admitted to grant-in-aid during 1983, according to which, the Petitioner has drawn the benefits of grant-in-aid at 50% from 1983 to 1999 and thereafter, it was enhanced to 70%. Since there was reduction in the strength of children to the nursery section, the appointment of Petitioner has been treated as redundant and the Petitioner was treated as junior to one more person working. The Management has decided not to extend the salary benefits to her as per the direction issued by the 3rd Respondent and she was relieved from services as on 12.12.2001. However, Petitioner filed an appeal before the 2nd Respondent-Commissioner for Public Instructions, who in turn, has rejected the case of the Petitioner on the ground that, there is no possibility of relocation of such surplus nursery teacher since there is no students' strength and also there is no possibility of transferring or accommodating her elsewhere. Hence, Petitioner is before this Court seeking re-instatement to the 6th Respondent institution or any other aided institutions in Karnataka and also for payment of arrears of salary with all consequential benefits stating that she has been put to precarious position.

2. Heard.

3. If as a matter of fact finding, there are no possibilities to accommodate the Petitioner, the same cannot be faulted since due to reduction in strength of students, the services of the Petitioner would no more be required and also there would be difficulty in extending the grant-in-aid in the absence of work load. The Management, of course, has relied upon the grant-in-aid wherein 50% of the salary has been paid initially through grant-in-aid and later 70% and whether the 6th Respondent-Management was paying the remaining salary, is not clear. Be that as it may.

4. From 1982 till 2001, for nearly 19 years, the Petitioner has served the institution of the 6th Respondent. What is not in dispute is, since 1983, the 6th Respondent-institution was admitted to grant-in-aid. When there was a reduction in students, automatically one section of the nursery came to be closed and in the fact situation, either the Government or the 6th Respondent could not accommodate the Petitioner since her post has become redundant. However, she could have been suitably compensated for having completed 19 years of service by extending her monetary benefits by way of pensionary benefits and provident fund etc.

5. Accordingly, while modifying the order of the 2nd Respondent-Commissioner for Public Instructions, it is hereby ordered to treat the service of the Petitioner till she is relieved on 12.12.2001, as retirement and, to extend her all the consequential pensionary benefits.

Accordingly, writ petition is disposed of.