

(2015) 07 KAR CK 0364

In the Karnataka High Court

Case No : Writ Petition Nos. 104778/2015 and 104936/2015 (S-RES)

V.S. Vastrad and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 24-07-2015

Acts Referred:

Citation : (2015) 07 KAR CK 0364

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : Sunil S. Desai, for the Appellant; Ravi V. Hosamani, AGA, Advocates for the Respondent

Final Decision : Allowed

Judgement

B. Veerappa, J—Learned AGA is directed to take notice for respondents 1 to 3 and 5.

Sri. M.B. Kanavi, learned Counsel is directed to take notice for Respondent-4.

Sri. M.S. Hiremath, learned advocate is directed to take notice for respondent-Nos. 5 and 7.

2. The petitioners who claims to be Professors of University Government Aided Colleges are before this Court, seeking for a writ of mandamus directing the respondents to pay the arrears of salary and arrears of earned leave encashment to the petitioners/retired teachers for the period from 01.01.2006 to 23.12.2009 in one installment, as is evident from the Orders of this Hon'ble Court passed in W.P. 15175/09 (S-R) dated 7.12.2010 and in CCC (Civil) No. 1757/11 dated 2.1.12 (annexures-J & K), with 12% interest @ 12% per annum.

3. It is the case of the petitioners, that they are Professors in Government Aided Degree Colleges on UGC pay scales retired after 1.1.2006. The 4th respondent addressed letter dated 31.12.2008 to the Secretary, University Grants Commissions, New Delhi marking copy to the Chief Secretaries of all the State

Governments sanctioning the revision of pay scales of teachers and equivalent cadres of Universities and Colleges w.e.f. 1.1.2006 providing 80% financial assistance to the state Governments for the period from 1.1.2006 to 31.3.2010. In implementation of the Scheme of Government of India dated 31.12.2008, the 1st respondent passed an order dated 24.12.2009 revising the UGC pay scale of teachers, in Government and Aided Degree Colleges in State under the control of the Department of Higher Education as recommended by UGC w.e.f. 1.1.2006. The 4th respondent addressed a letter dated 11.05.2010 to Education Secretaries of all State Governments in the Country specifically stating that the release of central Assistance shall be considered by the Central Government in accordance with the provisions of the Scheme only after the State Government have adopted and implemented the scheme as a composite scheme. Though the scheme and subsequent letters of the Central Governments are clear to the effect that at the first instances the State Government as to release the salary and thereafter they can seek reimbursement. Even then the petitioners have not been paid the arrears of salary for the period from 1.1.2006 to 23.12.2009. Hence, the petitioners are before this Court.

4. The 4th respondent by its letter dated 14.8.12 to Education Secretaries of all State Governments in the country has stated that the issue of age of retirement is left to the State Governments to decide at their level and the condition of enhancement of age of superannuation to 65 years as mentioned in the letter dated 31.12.2008 stated supra, may be treated as withdrawn for the purpose of seeking reimbursement of central share of arrears to be paid to State Universities and College teachers. It has also been stipulated therein that reimbursement of 80% of central share of the additionally of payment of arrears for the period from 1.1.2006 to 31.3.2010 would be by way of reimbursement only, after the State Government has made the payment. It is submitted that another retirement benefit i.e. "Earned Leave Encashment" amount has been sanctioned to the petitioners in the pay scale existed prior to 1.1.2006, awaiting release of arrears of salary, causing mental agony and harassment at the fag end of their life. Therefore, Karnataka State University and Degree Colleges Retired Teachers' Association, Mysore Zone, representing the petitioners had preferred separate representations to the respondents 1 and 3 on 31.1.2014 praying to re-fix the earned leave encashment in the revised UGC pay scale of 2006 and release the arrears. In spite of the same, no action has been taken by the respondents. Therefore, the petitioners got issued a Legal Notice dated 26.5.2014 to respondents 1 to 3 for release of arrears of salary in the UGC revised pay scales of 2006 with effect from 1.1.2006. In the meanwhile, in respect of some of the representations submitted by other similarly situated persons as that of the petitioners, the 3rd respondent-Commissioner for Collegiate Education addressed a letter dated 5.6.2014 to the 1st respondent seeking directions in the matter of payment of arrears of salary. It is submitted that even on receipt of the legal notice the 3rd respondent addressed a letter dated 3.7.14 to the 1st respondent seeking directions in the matter pertaining to

the payment of arrears of salary to the petitioners and recently the 1st respondent has passed orders for release of arrears of salary to all the teachers for 3 to 4 months for the period from 23.12.2009 backwards, but all the petitioners have not been paid the said amount so far.

5. It is also contended that other similarly situated persons have approached this Court in W.P. 15175/09 (S-R) and this Court by order dated 7.12.2010, directed the respondents to take steps in regard to payment of arrears within a period of three months and also observed that, if the respondents fails to implement the order within a period of three months from the date of receipt of a copy of this order, for the subsequent period, the amount to which the petitioner is entitled to will also carry interest at 6% p.a. Liberty was reserved to the petitioner therein to give representation in regard to the various amounts to which he is entitled in law and the respondents were directed to consider the said representations in accordance with law. It is also brought to the notice of this Court, since the respondents failed to implement the aforesaid order, the petitioner therein initiated contempt proceedings in CCC (Civil).No. 1757/11 before this Court, and thereafter the respondents have taken steps to quantify the amount as per UGC scale and the same was paid to the petitioner in the said petition. It is also brought to the notice of this Court, that similarly situated persons have also approached this Court in W.P. Nos. 112957-113040/14 & connected matters, and this Court by order dated 5.2.2015 directed the respondents to pay arrears of salary and other emoluments as per revised pay scale to which the petitioners therein would be entitled to for the period from 1.1.2006 to 23.12.2009 within three months from the date of receipt of copy of the order and on failure to do so to pay interest at 8% p.a. on the said amount.

6. It is submitted that in spite of the petitioners herein have brought to the notice of the respondents that their claim is similar in nature to that of the petitioners in the aforesaid writ petitions, which were already disposed of by this Court, the respondents have not taken any steps to release the arrears of salary even to this day. Therefore, the petitioners are before this Court.

7. I have heard Sri. Sunil S. Desai, learned Counsel appearing for petitioners, who has contended that in spite of the case of the present petitioners is squarely covered by the judgments rendered by this Court in W.P. 112957-113040/14 dated 5.2.2015 and W.P. Nos. 57725-773/2014 dated 18.3.2015 wherein the respondents were directed to pay the arrears of salary and other emoluments as per revised pay scales to the petitioners therein which direction was complied by the respondents, but the respondents in the case of present petitioners have not released any amount to which they are legally entitled to in spite of repeated requests, representations and issuance of legal notice. Therefore, he contended that the respondents may be directed to pay the arrears of salary and arrears of earned leave along with interest.

8. Per contra, learned AGA without disputing the case of the petitioners and the earlier orders passed by this Court in the aforesaid writ petitions, has filed a

Memo dated 10.7.2015 stating that in pursuance of the direction issued by this Court in the above mentioned writ petitions, the Government of Karnataka has calculated the entire amount payable in terms of the above mentioned order totaling to Rs. 733.74 crores and since the said amount is huge, the Government intends to release the same in installments and accordingly, it has decided to provide a sum of Rs. 150.00 crores for the financial year 2015-16 and action is being taken for release of Rs. 58.00 crores as 1st installment and that further steps would be taken to obtain approval for utilization of the full extent of grant from the legislature and to release the remaining amount in stages during the months of July-2015 and December-2015. He has also stated that the Government has issued a communication dated 15.5.15 to this effect to the Director of Collegiate Education, Bangalore, and the said communication is produced along with the Memo and accordingly, request the court to dispose of the writ petitions.

9. The said Memo along with the government's communication dated 15.5.15 are placed on record.

10. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for both the parties.

11. It is not in dispute that in the case of similarly situated persons who had approached this Court for similar reliefs in W.P. Nos. 112957-113040/14 & connected matters dated 5.2.15 and in W.P. Nos. 57725-73/2014/14 dated 18.3.2015, this court has taken a consistent view and passed orders to the effect that the respondents 1 to 3 and 5 shall pay the arrears of salary and other emoluments as per revised pay scale to the petitioners within a period of three months and also directed the Central Government for releasing 80% of the contribution payable by it on the request made by the State Government. Therefore, in view of the orders passed by this Court in the earlier writ petitions and also having regard to the Memo filed by the learned AGA along with the Communication dated 15.5.2015 addressed by the 1st respondent-Government to the 3rd respondent-Collegiate Education, the only point that arise for consideration is whether six months time as sought in the communication could be granted.

12. It is evident that the directions issued by this Court in the earlier writ petitions are squarely applicable to the present writ petitions also. Therefore, having regard to the facts and circumstances of the case and taking into consideration the fair submission made by the learned Government Advocate, it is appropriate to grant six months time as sought by respondent/State Government in its communication dated 15.5.2015 to pay the arrears of salary and arrears of earned leave encashment to the present petitioners.

Accordingly, I pass the following:

ORDER

The writ petitions are allowed.

Respondents 1 to 3 and 5 are directed to pay all the arrears of salary and other emoluments as per the revised pay scale to the petitioners herein, for the period from 1.1.2006 to 23.12.2009, in stages during the months of July-2015 and December-2015 as undertaken by the Government in their letter dated 15.5.2015 and on failure to make such payment, the petitioners would be entitled to interest @ 8% p.a. till the date of payment.

It is needless to observe that on the request made by the State Government after making payment due to the petitioners, for releasing 80% of the contribution payable by the Central Government, and on such request being received within three months thereof the Central Government shall release the said amount as agreed by them in the Scheme of Revision as per their letter dated 14.8.2012.

Accordingly, the writ petitions are disposed of.