
(2004) 01 KAR CK 0044
In the Karnataka High Court
Case No : Writ Petition No. 45264 of 2001

Y. Venkataswamy Reddy

APPELLANT

Vs

Bangalore University Jnana Bharathi and Another

RESPONDENT

Date of Decision : 29-01-2004

Acts Referred:

Citation : (2004) ILR (Kar) 1063 : (2004) 2 KCCR 169 SN

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : P.S. Rajagopal, for the Appellant; Ravi Malimath, for R1, S.G. Bhagavan, for R1 and N. Basavarajaiah, HCGP for R2, for the Respondent

Final Decision : Allowed

Judgement

R. Gururajan, J.—Petitioner Y. Venkataswamy Reddy is challenging an endorsement dated 6.11.2001 issued by the respondent No. 1 in terms of Annexure-B by issue of a writ of certiorari. Petitioner also seeks a mandamus to pay to the petitioner salary, allowance and increments in the pay scale of Rs. 3700-5700 from 2.9.1998 till 31.12.1995 and in the pay scale of Rs. 12000-183000 from 1.1.1996 and onwards, with interest at 18 per cent per annum.

2. Facts in brief are as under:

Petitioner is holding a degree in B.E. in Mechanical Engineering conducted by the University. He joined the services of the University as Laboratory Assistant by direct recruitment in 1972. He passed his M.E. degree examination securing first class in 1990. University has made a statute governing admission to various posts in the University Vishweshwaraiah College of Engineering and the Central College. In terms of the statute, qualifications and minimum experience is prescribed. Mode of appointment for the post of workshop Superintendent was by way of qualification, qualification being first class or second-class in Mechanical Engineering degree. In addition, applicants shall have at least 5 years

experience in the maintenance of workshop, particularly in the erection and repair of machinery. Preference is for M.E. degree in Engineering, in addition to which, teaching experience was also desired. Experience of 2 years was made essential.

Post of Workshop Superintendent carries a pay scale of Rs. 600-1150 in terms of pre-1970 pay scale of Government of Karnataka. Under 1970 pay scales, it was revised to Rs. 700-1250. Both in pre-1970 pay scales also under 1970 pay scales the scale of pay of Workshop Superintendent was identical with that attached to the post of Reader in the University. Notification dated 1.7.1991 in terms of Annexure-B supports the contention of the petitioner. This notification shows that the post of Workshop Superintendent carries the same pay scale as that of Reader.

Petitioner is working as Workshop Superintendent uninterruptedly for several years. The Syndicate of the University in its meeting held on 18-3-1994 resolved to grant regular promotion to the petitioner to the cadre of Workshop Superintendent with effect from 2.9.1998. The Syndicate also resolved that the cases of remaining two Laboratory Assistants may be considered for selection as lecturers under direct recruitment. Annexure-C is the order of the Syndicate. Petitioner though was holding the post of Workshop Superintendent, which is equivalent to the post of Reader, was not provided the pay scale as applicable to the post of Reader. He made a representation on 28.7.1994. Annexure-E is a recommending letter by the Principal in the matter of granting pay scales of Reader to the petitioner. Petitioner was assigned the pay scale by the Bangalore University. It granted the pay scale of Rs. 2000-3750 with effect from 2.9.1988 to 30.6.1993 and Rs. 2150-4200 with effect from 1.7.1993. Annexure-G is the order issued by the University in the matter of promotion of Workshop Superintendent assigning the same scale of pay which he was drawing prior to his promotion. The Principal of the College issued a letter to the Registrar seeking for extension of the pay scale of Rs. 3700-5700 to the petitioner without delay. Petitioner also made a representation in terms of Annexure-J, Annexure-K stipulates norms and standards fixed by All India Council for Technical Education, Clause 8.11 of which deals with workshop Superintendent. In the Norms it is stated that Workshop Superintendent shall be of the level of the Assistant Professor. Assistant professor's scale is Rs. 3700-5700 and its revised pay scale being 12000-18300 in terms of Annexure-L.

Bangalore University addressed a letter in the matter of revision of pay scales of the petitioner to the Government. Thereafter, petitioner was given an endorsement dated 14.5.1999. The said endorsement says that the petitioner is deemed to have been promoted to officiate as Workshop Superintendent as required u/s 50 with effect from 2.9.1988. But, without any financial commitment. Thereafter the University constituted a committee to look into the demand of the non-teaching technical staff of the Departments of the University Vishweshwaraiah College of Engineering. A report was submitted in favour of the

petitioner. Thereafter, petitioner made one more representation with regard to his pay scales. He received a negative endorsement at the hands of the University.

With these facts, petitioner is seeking various prayers.

3. University has entered appearance and it refers to various material facts. It says that one Mr. Chandrasekhar was not extended the pay scale of Reader as the State Government has not extended the scale of Reader to the Workshop Superintendent as the post comes under non-teaching staff. The University also says that the scale of UGC/AICTE was not duly extended to the Workshop Superintendent by the Government. Though Pranesh Committee recommended for extension of the pay scale, the same has not been accepted by the Government. The Government in its Endorsement states that the post of Workshop Superintendent cannot be equated even with that of Lecturer. UGC/AICTE has not extended its pay scale to Workshop Superintendent. Government also says that the case of the petitioner does not merit consideration. University entirely depends upon the rejection by the Government.

4. Heard the learned Counsel for the parties. Sri P.S. Rajagopal, learned Counsel for the petitioner would contend that the workshop Superintendent and Reader are one and the same. He says that the petitioner is a teaching staff in the given set of circumstances. He relies on a judgment of this Court in WP No. 5170 of 2002 disposed of on 6.2.2003 in support of his contention. In so far as comparison with that of Chandrasekhar is concerned, he relies on statement of objections filed by the Government in the said Writ Petition No. 5170 of 2002. Finally he says that the university has recommended in terms of Pranesh committee Report and the Government cannot say "No" in the given circumstances. He wants the petition to be allowed.

5. Per contra, Sri Ravi Malimath, learned Counsel appearing for the University would say that the Government in unmistakable terms has stated that the petitioner cannot be granted the pay scale. He refers to the objection statement. Government Pleader supports its action.

6. After hearing the learned Counsel for the parties, I have carefully perused the material on record.

7. Annexure-A shows that the petitioner obtained masters degree in Engineering. Annexure-B would show that M.E. degree is a necessary qualification for Workshop Superintendent. Annexure-C is a notification issued by the University on 23.2.1994. It states that the petitioner is deemed to have been promoted to officiate as Workshop Superintendent. Petitioner made a request for fixation of pay scale of Rs. 3700-5700. Principal of the College has stated that the petitioner could be given the pay scale of Reader i.e. Rs. 3700-5700. Registrar has granted the pay scale of Rs. 2000-3750 with effect from 2.9.1988 and Rs. 2150-4200 with effect from 1.7.1993. Thereafter, the Registrar issued a modified order on 15.12.1994, and, in the modified order it is stated that the petitioner is allowed

similar scale of pay on his promotion as Workshop Superintendent. Principal again made a request to the Registrar to extend the scale of Rs. 3700-5700 to the petitioner. Petitioner also has made a request in this regard. At this stage, it is necessary to refer the norms and standards in terms of Annexure-K. In so far as Workshop Superintendent is concerned, Annexure-K states that the said post of workshop Superintendent shall be of the level of Assistant Professor. The post of Assistant Professor's pay scale is shown as Rs. 3700-5700, which was revised to Rs. 12000-18300. The Registrar has also ordered revision of pay scale of Workshop Superintendent in terms of Annexure-M. The University in terms of Annexure-N has promoted the petitioner to officiate as Workshop Superintendent but without any financial commitment.

8. The University has formed a Committee with regard to consideration of demands of non-teaching technical staff of the Departments of University Vishweshwaraiah College of Engineering, Bangalore. The Committee consists of Professor M.R. Pranesh, Dr. K. Balaveera Raddy, Professor D. Eshwarappa, Sri AGA Sulthan, Prof. H.N. Shivashankar and the Superintendent of Bangalore University. The Committee has noticed the case of the petitioner, and after noticing the same, it states at page 4 of the Report at Annexure-Q, reading as under:

"5 CASES RELATED TO WORKSHOP SUPERINTENDENT:

(a) Sri Y. Venkataswamy Reddy:

Sri Venkataswamy Reddy is at present working as Workshop Superintendent and possesses P. G. qualification. He has requested for a scale corresponding to that of Reader/Asst.Professor. According to the advertisement No. S6, 970.71/71-72 dated 11.8.1971 from Bangalore University for the post of Workshop Superintendent, the scale of post advertised for Reader and Workshop Superintendent were one and the same viz. Rs. 700-1250. The Workshop Superintendent is categorized as Class I Post of Bangalore University Statutes (Page No. 114). 28.3 Schedule "A".

"However, in the subsequent stage, the scale of Workshop Superintendent was corresponding to the state scale is Rs. 750-1525. Hence, keeping responsibility and accountability of the Workshop Superintendent and his qualification and Statutes of the Bangalore University, Workshop Superintendent is to be deemed as Class I Post.

Hence, the scale is corresponding to that of Reader/ Asst.Professor is suggested by the Committee. This scale if agreed, be made applicable from the date of approval of the Syndicate"

The said report has been accepted and the deemed date of promotion of one Sri Subramanya has been regulated on par with B.N. Narayanaswamy. Petitioner requested in the light of the Pranesh Committee Report to refix the pay scale. In reply, it is stated that his request cannot be considered. In the given

circumstances, it cannot be said that the petitioner is not entitled for salary in the pay scale of Rs. 3700- 5700 as is applicable to the Assistant Professor, in terms of various documents referred to above. In fact, the Committee has accepted the petitioner's request. It is also noticed at this stage that in the Government Order dated 24.1.1987 the Assistant Professors are to work as Workshop Superintendent. This would mean that the post of Workshop Superintendent is equivalent to the post of Assistant professors. Therefore, the petitioner, in the circumstances, cannot be denied the pay scale as applicable to the Assistant Professors. Rejection in terms of Annexure-B, in the circumstances, requires my interference.

9. In the statement of objections it is stated that the petitioner belongs to non-teaching staff. If Annexure-B is seen at this stage, it would reveal that the post of Reader cannot be termed as non-teaching staff. In fact, this court in the case of DALAPPA v. BANGALORE UNIVERSITY WP 5170/2002 dd 6.2.03 (WP No. 5170 of 2002, disposed of on 6.2.2003), in a similar situation, has categorically ruled that the posts like Workshop Superintendent are teaching staff. In the circumstances, this defence is not available to the respondent.

10. It is also stated in the statement of objections that the Government has not accepted the Pranesh Committee recommendations. In para-8 of the statement of objections, it is shown as to how Pranesh Committee report is not binding on the university. No material would show as to how the Government can veto the acceptance of the report of the University. This defence is also not acceptable to me. No power in the Government is also shown to me by the University.

11. In the circumstances, I deem it appropriate to accept this petition. A direction is issued to the respondent to provide the pay scale as applicable to the Assistant Professors in accordance with law. In so far as the interest is concerned, same would be payable in terms of the rule as applicable towards delayed payments. If no rules are provided, petitioner be granted 18 per cent as applicable to the delayed payments in the case of government servants. Ordered accordingly.