

State Of Karnataka And Ors. vs N. Parameshwarappa And Ors. on 9 October, 2002

Equivalent citations: [2002(95)FLR1215], JT2002(9)SC393, (2003)12SCC192, (2003)1UPLBEC454, AIRONLINE 2002 SC 525

Bench: Doraiswamy Raju, B.N. Srikrishna

ORDER

C.A. Nos. 8334-8353 /2001, 8355-8357 and 8358-8374/2001

1. Of the above batch of appeals before us, C.A. Nos. 8334-8353 of 2001 have been filed by the state of Karnataka and respondent teachers have also filed independently separate C.A. Nos. 8355-577 2001 and 8358-8374 of 2001, aggrieved against the respective portions of the judgment of the division bench of the High Court of Karnataka dated 30-05-1998 in writ appeal nos. 528-546 of 1996 etc., writ petitions had been filed before the High Court of Karnataka seeking for the quashing of the circular dated 14-01-1992 issued by the regional deputy director of collegiate education, Mysore and for a consequential direction in the nature of mandamus directing the authorities of the state to implement the Go No. ED 88 UNI 88 Bangalore dated 30-03-1990.

2. The real controversy centers around a narrow compass. In the state of Karnataka, having regard to the pattern of education in vogue with the implementation of system of education 10+2+3, three types of colleges came into function, firstly, colleges in which exclusively pre-university courses alone were taught; secondly, colleges in which exclusively degree courses alone were taught and composite colleges, as it is called wherein both the pre-university as well as degree courses also were taught, and also called as first grade colleges. When the government passed the orders dated 30-03-1990 extending the benefits of revised 1986 University Grants Commission (for short the UGC) pay scales to the teachers in the first grade (degree) colleges both government colleges and those aided by government as per grant-in-aid code under the control of the directorate of collegiate education, various guidelines and stipulations were issued therein for the purpose of extending the scales of pay in terms of the 4th plan pay scales of UGC. The said order itself seems to have been passed as an aftermath of the representations made by the college teachers and the recommendations of the committee set up therefore, after considering such recommendations as well as the orders of the government of India, agreeing to extend its assistance for implementing the scheme of revision of pay scales. This order was said to have been made in supersession of the earlier government order dated 25-03-1989 and for sanctioning revised 1986 UGC scales to the teachers in the first grade degree colleges of the class or category notified above with effect from 1-1-1986. The UGC scheme was stated to be a composite scheme, embracing within its fold not only the university teachers but also the teaching staff of the colleges. Under the caption 'coverage' the order stated as follows:

" (1) COVERAGE: The scheme applies to teachers in all the first grade (degree) colleges both government aided and government colleges under the directorate of collegiate education. This scheme shall, however, not apply to those who specifically exercise an option in writing to remain out of it All teachers appointed after the date from which the scheme has been given effect to will be governed by the provisions of the scheme."

3. In the course of implementation of the said orders certain difficulties seems to have surfaced and as noticed earlier the regional deputy director, (collegiate education department, Mysore) in his circular dated 14-1-1992 while inviting the proforma and proposals for implementing the orders of the government indicated that no proposals need be sent in respect of lecturers teaching pre-university classes only and this gave rise to the litigation culminating in the appeals now before us.

4. The learned single judge of the Karnataka High Court who heard the batch of writ petitions by the judgment dated 25th September, 1995 has countenanced the claim of the writ petitioners before the High Court and issued consequential directions for the implementation of the orders to all the lecturers attached to the composite colleges by granting the revised UGC scales of pay with effect from 1-1-1986 and settle their claims for the arrears within the time stipulated therein and provided also for payment of compounded interest in default thereof, at the rate of 18%. Aggrieved, the state pursued the matter on appeals before the division bench. The learned judges of the division bench, though were not prepared to agree with the decision of the learned single judge in its entirety and the consequential directions issued by the learned single judge in all respects, but agreed with the observations of the learned single judge that all the lecturers in the composite colleges such as the writ petitioners before the High Court were always treated alike with no further differentiation or distinction till then, for purpose of the pay scales and that the differential treatment now sought to be made was no justified at all. Therefore, the circular orders dated 14-1-1992 was held rightly quashed. The learned judges were also of the view that under the guise of a clarification or circular the benefits under the government orders dated 30-03-1990 could not be taken away. At the same time, while partly allowing the appeals by the state the division bench interfered with the directions of the single judge to grant the benefits to the teachers of the class of writ petitioners before the court only with effect from 1-4-1990 and that too in respect of those who came before the court, if otherwise held eligible. The time schedule for implementation was revised, while at the same time, deleting the provision for payment of compounded interest. As noticed earlier the state as well as the respondent-teachers are before us, the respondent- teachers mainly in so far as the benefits have been denied to them from 1-1-1986.

5. Mr. Mahendra R. Anand, learned senior counsel appearing for the appellant-state of Karnataka vehemently contended that both the learned single judge as well as the division bench failed to take into account some of the relevant and vital clauses in the government order dated 30-3-1990 which contained specific stipulations confining the benefits under the order and the extension of UGC scales of pay to teachers in the degree colleges only and that the circular dated 14-1-92 was merely clarificatory in nature of an obvious position even as per the original order of the government dated 30-3-1990 which according to the learned senior counsel had no application to the teachers teaching

pre-university students in the composite colleges as well. The learned senior counsel also endeavoured to invite our attention to certain differences between the category of teachers in degree colleges and the teachers of the pre-university colleges. Our attention has also been elaborately invited to the government order dated 30-3-1990, the relevant portions of the judgment of the High Court as also the affidavits filed by the principal secretary, department of education, government of Karnataka on more than one occasion on the directions of this Court, in these appeals.

6. Per Contra Mr. V.R. Reddy, learned senior counsel appearing for the respondent-teachers submitted that having regard to the clause in the government order dated 30-3-1990 under the caption 'coverage' the scheme had to be applied to all teachers in the composite colleges, both government and government aided colleges under the directorate of collegiate education and it will have no application only to those who specifically exercised an option to remain out of it and, therefore, no exception could be taken to the conclusions arrived at by the learned single judge as well as the division bench that the respondent-teachers and their like in composite colleges should also be entitled to the benefit of the government order dated 30-3-1990. The learned senior counsel also endeavoured to impress upon us that the qualifications, promotional prospects, pay scales etc. were otherwise common for both, that no compartmentalisation of different groups is specifically made for PUC alone or degree courses alone in such composite colleges and that the factum of actual teaching invariably depended mainly upon the need of the particular college at the relevant time depending upon the courses of training available, though the teaching area or sphere as such was not exclusively earmarked. The fact that lecturers teaching degree classes were asked to, at times take up classes for PUC students also have been highlighted. It has also been brought to our notice, incidentally, that roughly about 6000 lecturers working in such composite colleges were already extended the benefit of the revised UGC scales of pay whereas the respondent-teachers of the number of about 80 or so alone are unjustifiably segregated for differential treatment. The learned senior counsel also invited our attention to the relevant portions of the documents as well as the judgments of the High Court, in support of his stand.

7. We have carefully considered the submissions made, on either side. In our view, the approach, the method of dealing and the manner of differentiation sought to be made by the authorities of the government for denying the benefit of the revised scales of pay to the respondent category of teachers alone does not seem to rest on any firm or definite legal stand. The benefit of coverage is found extended to all the teachers in first grade degree colleges, also called as composite colleges and merely because such colleges have been permitted to have pre-university courses also, the teachers should not be discriminated merely on the ground as to which teacher is assigned, at a particular point of time to teach which class of students, though individual entitlement of each of the teachers may depend upon the fulfilment of other requirements stipulated therefore. This is obvious, in our view, from the omission of the state to bring forth positively any definite factual aspect for such differential treatment not only before the High Court but also in this Court which necessitated this Court on 16-1-2001, 24-4-2001 and 26-7-2001 to issue directions calling for disclosure of the specific stand and statement of facts to have an effective adjudication of the issue.

We have been taken through the three affidavits filed in this Court by the principal secretary, education department, and as observed in the order of this Court on 24-4-2001 they seem to be

more of argumentative nature, than the presentation of a specific and relevant fact or criteria based upon any concrete basis of fact and the affidavit filed thereafter also, except being in the nature of a mere assertion does not contain that relevant detail for this Court to take a different view of facts than the one consistently arrived at by the learned single judge as well as the division bench of the High Court. In that view of the matter and taking into account also to some extent the other factor such as the injustice that may result in denying the benefits of the order to merely about 80 or so of the teachers in the composite colleges in question imparting education for degree and PUC courses, we do not consider it appropriate to disturb the findings on this aspect as to the coverage of such teachers in composite colleges, for purposes of revised UGC scales of pay to them.

8. As indicated earlier, the learned judges in the division bench confined the relief granted to the period with effect from 1-4-1990. A faint challenge has also been made to this part of order, but not of any substance or merit, of acceptance. Relief in this regard has been so confined for more than one relevant and justifying reason and one such was the absence of the Union of India and the University Grants Commission before the court as party to the proceedings. Even that apart some of the facts of the submission made by Mr. V.R. Reddy, learned senior counsel appearing for the respondent-teachers, which found favour of our acceptance and dissuaded us from interfering with the judgment under challenge in these appeals, if persuaded to their logical extent only fortifies the said conclusion arrived at by the division bench of the High Court. One such contention was that it was permissible for the government, independently of the central government assistance also to extend the benefits to the teachers beyond that which has been provided for by the government of India. Such responsibility, even under the government order dated 30-3-90 has been undertaken from 1-4-1990, onwards by the state government to implement the scheme in entirety. Therefore, for such added reasons too we are in entire agreement with the judgment of the division bench that the relief accorded should be confined to the period with effect from 1-4-1990 only. At the same time we do not find any reasonable justification to confine the relief to only such of the teachers who approached the court and having regard to the fact that relief related to the revision of scales of pay, everyone of that class of teachers who approached would be entitled to the benefit, notwithstanding that they have not approached the court. We are in equal agreement with the division bench in denying the payment of interest at compounded rates which, in our view, cannot be justified at all on the facts and circumstances of the case wherein a serious and genuine doubt existed about the applicability of the government order dated 30-3-90, as raised in the proceedings.

9. For all the reasons stated above the appeals filed both by the state as well as by the private respondent-teachers fail and shall stand dismissed. Our declaration to extend the benefits of the judgments to others who have not approached the court, but similarly placed is to do complete and substantial justice. No costs.

The time schedule imposed by the division bench will commence from this date.