

K. T. Veerappa & Ors vs State Of Karnataka & Ors on 12 April, 2006

Equivalent citations: 2006 AIR SCW 2197, 2006 (9) SCC 406, 2006 LAB IC 2107, 2006 (3) AIR KANT HCR 539, (2006) 109 FACLR 1068, (2006) 4 KANT LJ 177, (2006) 2 SCT 458, (2006) 5 SCJ 48, (2006) 3 SUPREME 668, (2006) 5 SERVLR 698, (2006) 4 SCALE 293, (2006) 3 LAB LN 783

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Bench: B. N. Srikrishna, Lokeshwar Singh Panta

CASE NO.:

Appeal (civil) 1216-1256 of 2003

PETITIONER:

K. T. Veerappa & Ors

RESPONDENT:

State of Karnataka & Ors

DATE OF JUDGMENT: 12/04/2006

BENCH:

B. N. Srikrishna & Lokeshwar Singh Panta

JUDGMENT:

J U D G M E N T Lokeshwar Singh Panta, J.

This batch of 41 appeals arising out of the common judgment and order dated 8th March, 2000 passed by the High Court of Karnataka at Bangalore in Writ Appeal Nos. 7000- 7555/1999 were taken up for hearing together and are being disposed of by this judgment.

The facts, in brief, are that the appellants are holding non-teaching posts in the University of Mysore. The pay scales of the employees of the respondent-University, after the Tukul Pay Commission Report, were based on the pay scales recommended by the said Commission for the Government employees of the State of Karnataka as adopted by the University after due consideration of the duties and responsibilities of the various posts in the University. The pay scales of Government employees were revised on the basis of 'Narayana Pai Pay Commission Report' with effect from 1st January, 1977. The University of Mysore-respondent No. 2 herein and other Universities in the State requested the State Government to extend the pay scales recommended by the Narayana Pai Pay Commission in its Report to the University employees also. The State Government appointed a Committee, namely, 'Muddappa Committee', to go into the entire matter and to make recommendations in that respect. The said Committee made a Report with certain

recommendations as to the revision of pay scales to the University employees, in the State of Karnataka. It appears that no satisfactory solution was found in the matter of fixing of pay scales to the University employees with effect from 1st January, 1977 and as a result thereof, a large number of employees especially the academic staff of the University of Mysore have suffered heavily. They filed representations requesting the authorities to look into the grievances of the employees and set right the anomalies. In spite of the recommendations in respect of the pay scales of the employees, the University of Mysore has not implemented the said Report. 23 employees of the respondent-University, similarly placed to the appellants, filed Writ Petition Nos. 21487-21506/1982 before the High Court inter alia praying for writ of mandamus commanding the State of Karnataka and the University of Mysore to declare that the fixation of revised pay scales with effect from 1.1.1977 in respect of the non-teaching (academic) staff of the University of Mysore insofar as the petitioners (in those petitions) were concerned is arbitrary, unreasonable, discriminatory and violative of Articles 14 and 16 of the Constitution of India and direct the State and the University to revise and re-fix the pay scales with effect from 1st January, 1977 at par with the employees of the State Government on the basis of the Pay Commission Report, 1976 as accepted by the University of Mysore. The State of Karnataka and the University of Mysore had not filed objections/counter affidavits in opposition to the said writ petitions which were allowed by the learned Single Judge by order dated June 21, 1989 directing the University of Mysore to accord revised pay scales to the petitioners on a rational basis with effect from 1st January, 1977 with consequential benefits including the difference of salary and further to consider the question of revision of pay scales with effect from 1st January, 1982 and also subsequently as and when the pay scales of other posts specified in column No. 5 of the statement extracted in the said order have been revised and to grant all consequential benefits.

Being aggrieved, against the judgment of the learned Single Judge, the University of Mysore filed Writ Appeal Nos. 2220 to 2230 of 1989. The said appeals were disposed of by the Division Bench on 18th April, 1990 in the following terms:-

"(i) The petitioners may submit their representations against the Report of the Muddappa Committee before the Vice-

Chancellor of the University of Mysore for revising the pay-scales. Within 4 weeks from the date of submission of the representations, the Vice-Chancellor shall appoint a Committee of three persons to go into the representations of the petitioners. The Committee so appointed shall hear the petitioners or their counsel and a representative of the University or its counsel and submit its Report to the Vice-Chancellor within four weeks from the date of its appointment. Within six weeks from the date of receipt of the Report of the Committee, the University shall take a decision in the matter in accordance with law regarding the pay-scales of the petitioners. In the event the pay scales are revised, the same shall be given effect to from 1.1.1977 by suitably amending the Statutes. Consequent to revision of pay scales to a higher scale, the petitioners shall also be entitled to all the consequential benefits including difference of salary from 1.1.1977.

(ii) The University is also directed to give effect to the subsequent revisions in the pay-scales with effect from 1.1.1982 and further revisions, if any, subsequent to 1.1.1982, the University and the

benefit of the same shall also be extended to the petitioners and the fitment in the pay-scales revised with effect from 1.1.1982 and a further revision, if any, shall be made on the basis of the pay-scale revised with effect from 1.1.1977. This direction shall also be complied with within the aforesaid period.

All the contentions of both sides are left open."

In compliance to the directions of the Division Bench of the Karnataka High Court, the Vice-Chancellor of respondent- University constituted a Committee of three members headed by a Chairman - Shri K. Hirianna, Deputy Secretary to the Government, Department of Personnel and Administrative Reforms, Karnataka Government. Having heard the affected parties, the Committee made certain recommendations which were accepted by the University and revised pay scales were, accordingly, sanctioned. However, the revised pay scales were not paid to those petitioners whose petitions were allowed by the learned Single Judge. The said employees initiated contempt proceedings against the University of Mysore, its Vice-Chancellor and the Registrar. The Vice-Chancellor and the Registrar both appeared in person before the High Court on 21st April, 1992 and submitted that the direction of the Court in Writ Appeal Nos. 2220-2230 of 1989 dated 18th April, 1990 and 21st September, 1991 had already been complied with and arrears of salary had been paid to those employees whose writ petitions were allowed by the learned Single Judge. No benefit of pay scales was given to the appellants. The appellants, therefore, represented to the Vice-Chancellor of the University who again appointed Shri Hirianna to head a Committee. Shri Hirianna retired from service before the Committee could finalise its Report and, thereafter, no Committee was re-constituted to redress the grievances of the appellants who continued to suffer the discrimination and were given lower pay scales.

The appellants being similarly placed employees approached the High Court of Karnataka by means of Writ Petition Nos.11755/94, C/W 3400-3423/1993, 37901- 37904/1992, 35996/1992, 2436-3443/1993 and 27004/92. The learned Single Judge of the Court relying upon the earlier decision of the Division Bench dated 18th April, 1990, allowed the writ petitions in the following terms:- (Vide para 6) "6. It is not in dispute that the revised pay scales of 1977 have been adopted and extended to some of the employees of the University. Since the issue is already concluded, there is no necessity to consider the same once again either by reconstituting the Hirianna Committee or any other authority. The University being a statutory body cannot make discrimination to its officers and employees in the matter of extending same benefit to others also. Any such discrimination is violative of Article 14 of the Constitution....."

It was further observed that in paragraph 6 of the Note on Pay Anomalies dated 2.2.1988 put up by the Registrar of the University, it is stated that "similarly placed employees"

were given the benefit of higher pay scales only because they filed writ petitions. The same is the position of the petitioners herein also. As a result, the writ petitions were allowed directing the University of Mysore to extend the revised pay scales of 1977 and the subsequent revision to the petitioners- appellants and pay the difference of monetary benefits to them within two months from the date of receipt of a copy of the

order.

Being aggrieved against the said judgment and order of the learned Single Judge dated October 29, 1998, the State of Karnataka through the Secretary, Department of Education, filed writ appeals under Section 4 of the Karnataka High Court Act, praying for setting aside the order of the learned Single Judge. The Division Bench, accordingly, set aside the impugned order of the learned Single Judge and recorded inter alia the following order:

"In the present case, it is a matter of record as is even borne out from the affidavit of the Vice- Chancellor of the University filed on 27.1.2000 that no Statutes are framed to implement the revised pay scales as per Scheme formulated by the Division Bench of this Court.

In the above view of the matter, in our considered opinion it was not permissible on the part of the learned Single Judge to issue a direction of the nature impugned herein i.e. directing the University to extend revised pay scales and make payments accordingly within 2 months from the date of the receipt of the order. It can unhesitatingly be held that going by the order of the earlier Division Bench referred to above, even the employees who are before the Division Bench were not entitled to any benefit of revised pay scales till the Statutes were framed. It is for the Vice-Chancellor of the University to take appropriate measures to remedy the wrong after giving due notice to the beneficiaries. Keeping the facts and circumstances of the case, we find it advisable to direct the University to take appropriate measures in terms of the Division Bench directions which has to be of general nature regarding revision of pay scales and forward the draft Statutes to the Government for its appropriate action in accordance with law. When such draft Statutes are received by the Government then it will be for the Government to take appropriate decision by taking into account the relevant considerations. Accordingly, the order of the learned Single Judge is set aside. Parties to bear their own costs."

Now, the appellants have filed these appeals by special leave.

In the counter affidavit filed by the State of Karnataka, it is admitted that the Government of Karnataka have revised the pay scales of its employees with effect from 1st January, 1977 and this revision was also extended to the employees of the Universities, including University of Mysore-respondent No. 2. Grant of benefit of revised pay scales by the University to its 23 employees, who had succeeded in the earlier writ petitions, is admitted. It is stated that the order of the Division Bench impugned in these appeals has only directed the implementation of the first order of the Division Bench in its true spirit. The State, for the first time, has taken wholly untenable stand that pursuant to the order earlier passed by the Division Bench, the action of the University granting pay scales to the 23 employees was not in accordance with the provisions of the Karnataka State Universities Act, 1976 as the pay scales of the employees of the University are to be fixed by framing or amending the existing Statute of the University. When the matter came up for

consideration before this Court on August 26, 2002 the learned counsel for the University submitted that the State Government has not taken a final decision in the matter with regard to the amendment of the Statute. The matter came up before this Court for consideration on February 7, 2003, when the learned counsel for the State as well as the University submitted that the proposed amendments to the Statute have not been approved by the State Government.

Having heard the learned counsel for the parties, we are satisfied that the appeals filed by the appellants deserve to be allowed. The learned counsel for the appellants submitted that the impugned order of the Division Bench of the High Court has misinterpreted the earlier order of the Division Bench which was binding upon the respondents-State and the University. According to the learned counsel, a Co-ordinate Bench is unjustified in commenting upon the earlier decision of the Bench to say that even the employees, who were before the Division Bench in the earlier appeals, were not entitled to any benefit of revised pay scales till the Statute was framed or amendment to the existing Statute is approved by the State Government/Chancellor. According to the learned counsel, the action of the State of Karnataka and the University of Mysore, denying the benefits of revised pay scales to the appellants, is wholly arbitrary and discriminatory. Per contra, Mr. Sanjay R. Hegde, learned counsel for the State of Karnataka, has sought to support the judgment of the Division Bench and contended that since the employees of the Universities established in the State of Karnataka are bound by their respective Statutes and unless the Statutes are suitably amended or modified by the University authorities and such amendment is finally approved by the Chancellor of the University, the appellants and other employees of the Universities in the State of Karnataka would not be entitled for the benefits of the revised pay scales at par with the employees of the State Government on the basis of Karnataka Civil Services (Revised Pay) Rules, 1970.

He next contended that fixation of pay and parity in duties is the function of the Executive and financial capacity of the Government and the priority given to different types of posts under the prevailing policies of the Government are also relevant factors. In support of this contention, he has placed reliance in the case of State of Haryana and Anr. v. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72 and Union of India and Anr. v. S.B. Vohra and Ors. (2004) 2 SCC 150. There is no dispute nor can there be any to the principle as settled in the case of State of Haryana & Anr. v. Haryana Civil Secretariat Personal Staff Association (supra) that fixation of pay and determination of parity in duties is the function of the Executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well-settled that the courts should interfere with administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors. In S.B. Vohra's case (supra), this Court dealing with the fixation of pay scales of officers of the High Court of Delhi (Assistant Registrars) has held that the fixation of pay scale is within the exclusive domain of Chief Justice, subject to approval of President/Governor of the State and the matter should either be examined by an expert body or in its absence by Chief Justice and the Central/State Government should attend to the suggestions of the Chief Justice with reasonable promptitude so as to satisfy the test of Article 14 of the Constitution of India. Further, it is observed that financial implications vis-à-vis effect of grant of a particular scale of pay may not always be a sufficient reason and differences should be mutually discussed and tried to be solved. In the present cases, in compliance to the judgment of the learned

Single Judge of the High Court, the Vice- Chancellor of the Mysore University constituted a Committee headed by Shri Hiriyantha. The said Committee, in its Report dated 8.6.1991, has recorded the observations that the details of the pay scales assigned by the 'Muddappa Committee', 'the Manjunath Committee', 'the Acharya Committee', 'the Gopala Reddy Committee' as also the pay scales given effect to from 1.1.1977 and the claims of the appellants, on individual basis, could perhaps have been attended to by the University itself after the 'Muddappa Committee' made its recommendations. The Vice-Chancellor and Registrar of the Mysore University, while appearing before the Division Bench of the Karnataka High Court in C.C.C. Nos. 84 to 103 of 1992 in compliance to the Order dated 16th April, 1992 had brought to the notice of the Bench that the direction issued by the learned Single Judge in W.A. Nos.2220 to 2239/1989 dated 18.4.1990 and 29.1.1991 had already been complied with and arrears of salary had been paid to the employees of the University, who filed the said Writ Petitions. Thereafter, the respondent-University submitted certain proposed amendments to the Statute and the same were sent to the State Government for approval. The State Government, for the reasons best known to it, till date has not been able to state any good reason as to why the amendment of the Statute as proposed by the University in regard to the fixation of the pay scales of its employees could not have been approved by the competent authority. The Vice-Chancellor in its affidavit dated 25.1.2000 filed in the Writ Appeal Nos. 7007-55/1999 has categorically stated that the respondent-University, in its Meeting held on 17.4.1999, decided to comply with the orders of the Court and also to extend the benefit of the revised pay scale with effect from 1.1.1977 to those employees who are eligible for such benefits and have not gone to the Court. This decision was taken on the representation submitted by the appellants.

The defence of the State Government that as the appellants were not the petitioners in the writ petition filed by 23 employees of the respondent-University to whom the benefit of revised pay scales was granted by the Court, the appellants are estopped from raising their claim of revised pay scales in the year 1992-94, is wholly unjustified, patently irrational, arbitrary and discriminatory. As noticed in the earlier part of this judgment, revised pay scales were given to those 23 employees in the year 1991 when the contempt proceedings were initiated against the Vice-Chancellor and the Registrar of the University of Mysore. The benefits having been given to 23 employees of the University in compliance with the decision dated 21.6.1989 recorded by the learned Single Judge in W. P. Nos.21487-21506/1982, it was expected that without resorting to any of the methods the other employees identically placed, including the appellants, would have been given the same benefits, which would have avoided not only unnecessary litigation but also the movement of files and papers which only waste public time.

Shri Sobha Nambisan, Principal Secretary to Government, Education Department (Higher Education), Government of Karnataka, in his latest affidavit dated 6.3.2006 filed in these proceedings has stated that after 1.1.1977, the Government of Karnataka has revised the pay scales of employees of State Government in 1982, 1987, 1994 and 1999. From 1.1.1977 to 2006, the dearness allowance, house rent allowance and other allowances have also been revised. The revision of pay scales, dearness allowance, house rent allowance and other allowances extended to the State Government employees were also extended to the University employees from time to time. Moreover, a large number of Mysore University employees were promoted in terms of the

time-bound promotion schemes of 10 years, 15 years and 20 years in terms of the Government Orders issued from time to time. The additional financial implications of Rs.60 lakhs will have to be borne by the State Government. He has categorically stated that the revision of pay scales extended to the employees of State Government time and again will also be extended to all the University employees.

In our view, the impugned judgment of the High Court in W. A. Nos. 7007-55/1999 dated 8.3.2000 is not legally sustainable. It is, accordingly, quashed and set aside. Consequently, the appeals are allowed and the order of the learned Single Judge dated 29.10.1998 in Writ Petition Nos.11755/94 CW 3400-3423/93, 37901-37904/92, 35996/92, 3426-3443/93 and 27004/92 is restored and maintained. The respondents-State of Karnataka and University of Mysore, both are directed to extend the pay scales of 1977 and subsequent revisions to the appellants and pay the difference of monetary benefits to them within four months from the date of this order. In the facts and circumstances of the case, the parties are left to bear their own costs.