



CNR: KAHC010645692025

NC: 2026:KHC:42879-DB
WA No. 1618 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 1618 OF 2025 (S-RES)

BETWEEN:

1. THE MANGALORE UNIVERSITY
MANGALA GANGOTHRI, KONAJE,
MANGALURU - 574 199
REPRESENTED BY ITS REGISTRAR
2. THE PRINCIPAL
UNIVERSITY COLLEGE,
A CONSTITUENT COLLEGE OF
MANGALORE UNIVERSITY,
HAMPANAKATTA,
MANGALURU - 575 001

...APPELLANTS

(BY SRI. ARIHANT R. SUNGAY ADVOCATE FOR
SRI. T.P. RAJENDRA KUMAR SUNGAY, ADVOCATE)

AND:

1. DR. KESHAVAMURTHY T
S/O B.V. THIMMEGOWDA,
AGED ABOUT 61 YEARS,
PHYSICAL EDUCATION DIRECTOR,
UNIVERSITY COLLEGE, A
CONSTITUENT COLLEGE OF
MANGALORE UNIVERSITY,
HAMPANAKATTA,
MANGALURU - 575 001



CNR: KAHC010645692025

NC: 2026:KHC:42879-DB
WA No. 1618 of 2025

2. THE STATE OF KARNATAKA
HIGHER EDUCATION DEPARTMENT,
6TH FLOOR, M.S. BUILDING,
BENGALURU - 560 001
REPRESENTED BY ITS
PRINCIPAL SECRETARY

...RESPONDENTS

(BY SRI. MURALIDHAR K.B., ADVOCATE FOR R1
SMT. PRATHIBA R.K., AGA FOR R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED
04.04.2025 PASSED BY THE LEARNED SINGLE JUDGE IN WP
NO. 15808/2024 (S-RES) AND CONSEQUENTLY DISMISS THE
WRIT PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL, COMING ON FOR ORDERS, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The Mangalore University by its Registrar and
Principal are before us in this intra Court appeal filed
under Section 4 of the Karnataka High Court Act, 1961,
assailing the order dated 04.04.2025 passed by the Writ
Court in W.P.No.15808/2024.



CNR: KAHC010645692025

2. The Writ Court, by the impugned order, following the judgments in W.P.No.441-443/2017 and W.P.No.12467/2017, quashed the impugned Government order bearing No.ED 254 UNE 2014, dated 28.08.2015 and the consequent Notification bearing No.MA.Vi/27/Sibbandi(2)/2016-17 dated 13.03.2017, issued by the respondent No.2, and ordered that the services of the petitioner shall be continued till he attain the age of superannuation, that is, 62 years. Further, the Writ Court observed that it is needless to mention that if the salary of the petitioner has to be paid till he attains the age of superannuation, the respondent No.1 shall take proper and adequate steps to pay the salary.

3. Parties are referred to as per their ranking before the Writ Court.

4. Facts germane to file the present appeal are as under:



CNR: KAHC010645692025

NC: 2026:KHC:42879-DB
WA No. 1618 of 2025

5. The petitioner was before the Writ Court seeking following relief:

- i) Issue **WRIT OF CERTIORARI**, quashing the Impugned Government Order bearing No. ED 254 UNE 2014 dated 28.09.2015 passed by the 1st Respondent **(ANNEXURE - AE)**, Impugned Notification bearing No. Ma.Vi/Ku.Sa/Sibbandi (2)/2/2024 dated 30.04.2024 issued by the 2nd Respondent **(ANNEXURE-AT)**, in so far as the Petitioner is concerned, holding the same as illegal, bad in law arbitrary one, discriminatory and violative of Article 14 & 16 of the Constitution of India in the interest of justice and equity.
- ii) Issue **WRIT OF MANDAMUS** directing the Respondents to continue the Petitioner in service in the present post till his attainment of age of superannuation of 62 years **i.e., till 30.06.2026** with all consequential benefits such as service benefit, monetary benefits, pensionary benefits and all other benefits flowing there from, in the interest of justice and equity.
- iii) Pass such other Order/orders as this Hon'ble Court deems fit and just in the matter in the interest of justice and equity in the eye of law."

6. The Writ Court having considered the judgments stated afore, allowed the writ petition and



CNR: KAHC010645692025

passed the order, in favour of the petitioner. Aggrieved by the same, the Mangalore University is in appeal.

7. Heard Sri.Arihant R.Sungay, learned counsel assisted by Sri.T.P.Rajendra Kumar Sungay, learned counsel for appellant, Sri.Muralidhar.K.B, learned counsel for respondent No.1 and Smt.Prathiba.R.K, learned Additional Government Advocate for respondent No.2.

8. The sheet anchor contention of Sri.Arihant.R.Sungay, is that the petitioner is not coming within the definition of "Teacher" provided under Sub-Section 2 of Section 12 of The Karnataka State Universities Act, 2000, since the petitioner is working as a Director of Physical Education, being a non-teaching staff, he is not entitled to the benefits conferred on the teachers, as such he is not entitled for increase in age of retirement i.e., from 60 to 62 years.



CNR: KAHC010645692025

**NC: 2026:KHC:42879-DB
WA No. 1618 of 2025**

9. It was further contented by Sri.Arihant that the judgments of the Writ Court which were relied on by the learned Single Judge, were the subject matter of appeal in W.A.No.3057/2019 and W.A.No.317/2021 respectively. The Co-ordinate Bench of this Court vide order dated 05.01.2021 disposed of W.A.3057/2019 reserving liberty to the appellant-University as well as to the state to raise all contentions with regard to the age of retirement of non-teaching staff including Physical Education Instructors, librarians, etc., in the State Universities in any other appropriate case. However, W.A.No.317/2021 was disposed of on 14.07.2021 on the submission that Government passed an order directing the University to comply with the order passed by the learned single judge and in that regard the University has also passed an order permitting the respondent therein to continue upto the age of 62 years and also pensionary benefits have been granted to them.



CNR: KAHC010645692025

NC: 2026:KHC:42879-DB
WA No. 1618 of 2025

10. Sri.Arihant Sungay further submits that in view of liberty reserved, the University has all rights to make its contentions against the judgment passed by the Writ Court and sought to allow the appeal.

11. On the other hand, Sri.Muralidhar.K.B, learned counsel for respondent No.1 argued in support of the order passed by the Writ Court.

12. Certain undisputed facts required to be considered prior to dwelling upon the rival submissions:

- (i) The petitioner working is/was Director of Physical Education with the appellant. As per ***Annexure-AT*** produced in the writ, that is the communication dated 30.04.2024 issued by the Registrar to the petitioner permitting him to retire on 30.06.2024. His date of birth was shown as 02.06.1964 in the said document.
- (ii) The petitioner filed writ petition, challenging the Notification issued by the Government stated *supra* along with the order dated 30.04.2024.



CNR: KAHC010645692025

- (iii) There was an interim order operating during the pendency of the writ, permitting the petitioner to continue in the post. Subsequent to disposal, in view of granting relief, the petitioner continued in the service.
- (iv) Admittedly there is no interim order granted in this writ appeal.
- (v) The petitioner retired on attaining age of 62 years on 30.06.2024, we are in the month of August 2026.

13. In that view of the matter, the *lis* in this appeal is squarely covered by the judgment of the Co-ordinate Bench of this Court in W.A.No.3057/2019, disposed on 05.01.2021, wherein the very same contentions were taken which now urged before us. The Co-ordinate Bench disposed of the appeal reserving the liberty. The order passed by the Co-ordinate Bench in W.A.3057/2019 reads as under:

"xxx

- 2. *University of Mysore has questioned the correctness of the order dated 11.07.2019 passed in*



CNR: KAHC010645692025

W.P.No.15260/2018. By the said order, the learned Single Judge followed earlier orders passed by this Court in W.P.Nos. 441-443/2017 dated 20.12.2018 and permitted respondent No.1 herein to continue to serve in the University until he attains the age of 62 years. Being aggrieved, the University of Mysore has preferred this appeal.

- 3. Learned counsel for the appellant University contended that the Physical Education Instructors are not 'teachers' within the meaning of Section 2(12) of the Karnataka State Universities Act, 2000 (hereinafter referred to as 'the Act', for the sake of brevity). However, the learned Single Judge has treated them on par with teachers and extended the age of superannuation to be 62 years, which is not correct. Therefore, this appeal would call for interference by this Court.*
- 4. Per contra, learned counsel for respondent No.1, at the outset, submitted that pursuant to the order of the learned Single Judge, respondent No.1 has served in the appellant University and has retired on attaining the age of superannuation which is 62 years. He submitted that no purpose would be served in interfering with the case of respondent No.1 who has retired on attaining the age of superannuation being 62 years pursuant to the order of the learned Single Judge.*



CNR: KAHC010645692025

5. *By way of reply, learned counsel for appellant University submitted that the impugned order would become a precedent in the case of other Physical Education Instructors or librarians and therefore, if this Court is to conclude the appeal on the basis that it has been rendered infructuous, then liberty may be reserved to the appellant University to raise all contentions on the issues raised in this appeal in any other appropriate case.*
6. *Learned counsel for respondent No.1 submitted that he had no objection for such an order being made, so long as respondent No. 1's rights are protected.*
7. *We note that the learned Single Judge has followed the earlier order passed by this Court in W.P.Nos.441-443/2017 dated 20.12.2018 and has granted relief to respondent No.1 herein in the order impugned. Pursuant to the said order, respondent No.1 has continued beyond 60 years and until he attained the age of 62 years and thereafter has retired from service. It is also an admitted fact that he has been paid his salary and other allowances during the period of his service beyond 60 years and until 62 years and therefore, he would be entitled to all retiral benefits in accordance with law, but the question remains, as to, whether, the definition of 'teacher' under Section 2(12) of the Act would include a Physical*



CNR: KAHC010645692025

Education Instructor or for that matter any librarian or any other employee of the University.

8. *But since respondent No.1 herein has been continued in service by the University pursuant to the order of the learned Single Judge beyond the age of 60 years and has retired from service on attaining the age of 62 years, we do not think that this appeal is a fit case where the contentions raised by the appellant University ought to be gone into. Hence, the appellant -University is directed to settle the retiral benefits of respondent No.1 herein within a period of one month from the date of receipt of certified copy of this judgment.*
9. *In the circumstances, we dispose of this appeal by reserving liberty to the appellant University as well as to the State to raise all contentions with regard to the age of retirement of non-teaching staff including Physical Education Instructors, librarians, etc., in the State Universities in any other appropriate case."*

14. In view of the fact that the petitioner retired from service on attaining age of superannuation that is, 62 years in this case on 30.06.2026, the contentions raised on behalf of the appellant-University have lost their efficacy.



CNR: KAHC010645692025

NC: 2026:KHC:42879-DB
WA No. 1618 of 2025

15. In that view of the matter, given the facts and circumstances, in view of the order in W.A.No.3057/2019, especially at paragraph No.9, this appeal is ***disposed of*** with the same liberty to the University to raise all the legal contentions that could arise in this appeal, in any other appropriate case.

16. The university is directed to comply with the order passed by the Writ Court and is also directed to settle all the retrial benefits of respondent No.1 herein within a period of two months from the date of receipt of a certified copy of this order.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

RR
List No.: 1 Sl No.: 14