

HON'BLE MR JUSTICE R. KANTHA RAO

Writ Petition NO.37785 OF 2014

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DATE:01.06.2015

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BETWEEN:

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A.Tulasi Das .. Petitioner

And

The State of A.P. rep. by its Secretary, Education Dept.(TE), Hyderabad and three others

.. Respondents

HON'BLE SRI JUSTICE R. KANTHA RAO

Writ Petition NO.37785 OF 2014

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution

of India seeking to issue a writ of mandamus declaring the action of the respondents in issuing retirement notice, dated 01.12.2014 to the petitioner as illegal, arbitrary, discriminatory, unconstitutional and against the principles of natural justice and contrary to the provisions of A.P. Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2014 i.e. Act 4 of 2014 and in violation of fundamental rights guaranteed under Articles 14, 16 and 19 of the Constitution of India and consequently to direct the respondents to continue the petitioner in service till he attains 60 years of age as per Act 4 of 2014.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The petitioner was working as Senior Physical Director in Sri Vara Lakshmi Polytechnic, Machilipatnam. He attained the age of superannuation on completion of 58 years by the end of 31.12.2014. The A.P. Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2014 i.e. Act 4 of 2014 came into force on 02.06.2014, according to which the age of superannuation of the State Government employees and other employees mentioned therein was enhanced to 60 years. Thereafter, the petitioner made a representation to the respondents 2 to 4 to enhance the age of superannuation up to 60 years by virtue of the provision of Act 2014. But, without considering the representation, a notice, dated 01.12.2014 informing the petitioner that he had to retire from service on 31.12.2014 was issued to him. Challenging the said notice, the petitioner filed the present writ petition to set aside the notice and also to issue a direction to the respondents to enhance his age of superannuation up to 60 years. While the writ petition is pending, the petitioner retired from service as no interim relief was granted.

4. The respondents filed counter affidavit mainly contending that according to Section 78-A of A.P. Education Act, 1982, the age of superannuation of the staff in Aided Private Educational Institutions not being last grade service is 58 years and therefore, the benefit under the Act No.4 of 2014 cannot be extended to the petitioner. It is contended by the respondents that Section 78-A of the A.P. Education Act applies to the petitioner but not the provisions of the Act No.4 of 2014. The respondents also referred to the Circular memo dated 02.07.2014 issued by the government wherein it is mentioned that the age of superannuation of teaching and non-teaching employees of the aided educational institutions are governed by Section 78-A of A.P. Education Act, 1982.

5. Learned counsel appearing for the petitioner invited the attention of this Court to the provisions of the Act No.1 of 2015 i.e. the A.P. Education (Amendment) Act, 2014 which came into force on and from the 2nd June, 2014. The said Act brought Amendment to Section 78-A of A.P. Education Act according to which every teacher or member of the non-teaching staff employed in any aided private educational institution, shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. The provision further provided that any employee who was made to retire by virtue of the provisions of Act No.4 of 2014 shall be re-inducted into service with effect from the date of publication of the Act.

6. Therefore, by virtue of Act No.1 of 2015 the petitioner is entitled to continue in service till he attains the age of 60 years. Further, as the petitioner was made to retire on 31.12.2014, he is entitled to be re-inducted into service. The respondents are directed to re-induct the petitioner into service with effect from the date of publication of the Act No.1 of 2015 i.e. 02.06.2014 as if he was not retired from service on 31.12.2014.

7. The writ petition, therefore succeeds and the same is accordingly allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this writ petition shall stand closed.

R.KANTHA RAO, J

Date:01.06.2015

ccm

THE HON'BLE SRI JUSTICE R.KANTHA RAO

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