

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.37687 of 2014

Date: 01-6-2015

Between

Abdul Hakeem

... Petitioner

and

State of Telangana,

Rep. by its Secretary,

Agri. and Co-op.(AGRI-III),

Secretariat, Hyderabad;

and 4 others

... Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

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Order:

The petitioner was initially appointed as Assistant Librarian vide

proceedings dated 13-4-1993 in Acharya N.G.Ranga Agricultural University (ANGRAU), the

3rd respondent herein. He joined the post of Assistant Librarian on 21-4-1993 at Agricultural College, Aswaraopet, Khammam district, which was one of the constituent colleges under the control of the 3rd respondent and after bifurcation, it is under the control of Professor Jaya Shankar Telangana State Agricultural University (PJSTSAU), the 4th respondent herein. On the date of filing of the writ petition, the petitioner was working as Assistant Librarian (Selection Grade). According to him, he was designated as Assistant Professor (Selection Grade) in Library and Information Science at College of Home Science, Saifabad, Hyderabad, which is one of the libraries of the

4th respondent-University. According to him, by virtue of the nature of duties discharged by him, he is the Assistant Professor in Library and Information Science who also can be recognised as part of the teaching cadre since the Assistant Professors in Physical Education have been recognised as such. By regulations, the University has stipulated the age of superannuation of teachers as

60 years. It is submitted by the petitioner that the Supreme Court has categorically laid down that Physical Directors employed by the University answer the definition of the teacher in view of the multifaceted instructions/training liable to be imparted by them. Similarly, it is said that some of the Universities in the country like Jawaharlal Nehru University, Delhi University and Osmania University, Hyderabad have recognised Librarians/Assistant Librarians as part of teaching cadre and consequently allowed them to retain in service till they attained the age of 60 years.

Thus, he claims that the Assistant Librarians employed by the 4th respondent-University are also entitled to go up to 60 years in service but the 4th respondent-University proposed to retire him from service on 31-12-2014 on the ground that he attained the age of 58 years. Therefore,

he filed the present writ petition challenging the action of the 4th respondent-University in retiring him at the age of 58 years on par with the non-teaching staff and he seeks a direction to the 4th respondent-University to continue him up to the age of 60 years considering him to be the part of the teaching cadre.

2. The writ petition is stoutly opposed by the respondents 4 and 5 contending, *inter alia*, in the counter affidavit filed by them as follows:

(a) The 4th respondent was formally part of the 3rd respondent-University. After formation of separate Telangana State, the 3rd respondent-University was bifurcated and separate Agricultural University viz., Professor Jaya Shankar Telangana State Agricultural University (PJSTSAU), the 4th respondent herein was formed. The petitioner is working at College of Home Science, Saifabad, Hyderabad, which is one of the constituent colleges under the control of the 4th respondent-University. For the University Officers appointed prior to 1978, the age of retirement was 60 years vide G.O.Ms.No.2081, Food and Agriculture Department, dated 09-8-1965. Therefore, the petitioner cannot contend that he shall be allowed to retire from service at the age of 60 years instead of 58 years by implementing the scale of UGC. The Supreme Court in its judgment dated 31-7-1997 in Civil Appeal No.898/1992 filed by one P.S.Rama Mohan Rao, retired Assistant Director of Physical Education, against the University held that Physical Education Teachers come under the definition of 'Teacher' and hence they are eligible to be continued up to 60 years of age. But, the said decision is not applicable to the Librarians/ Assistant Librarians, who discharge altogether different functions.

(b) It is further submitted that the age of superannuation for all the Librarians in Government Degree Colleges as well as in Government Junior Colleges is

58 years and not 60 years. The contention raised based on the University Library staff as part of teaching cadre is not tenable since the University has not agreed the recommendations of UGC which are not binding on the

4th respondent-University unless the ICAR approves the recommendations.

(c) Next, it is submitted that the UGC has not recommended any age of retirement for Librarians.

As per ANGRAU Regulations, the 'Teacher' is defined as "one who is involved in the teaching, research and guidance". The Librarian is not performing any of these three functions. In this context, it is submitted by the respondents 4 and 5 that one A.Sreeramulu and another, who are the Assistant Librarians recruited by the ANGRAU, retired from service on attaining the age of 58 years and the petitioner, therefore, cannot contend that he shall be continued till he attains the age of 60 years.

(d) It is further contended that the objective of introducing non-credit course in Library and Information Science is to equip the library users with skills to trace information from libraries efficiently and to make the students and others to acquaint with the library facilities available in the library and mere introduction of the said non-credit course does not entitle the petitioner to be treated as a teacher. According to the respondents 4 and 5, the University has not recognised the Librarians/Assistant Librarians as teachers and therefore, the petitioner cannot claim parity with the University Teachers and claim to continue in service up to 60 years of age.

(e) The respondents 4 and 5 also brought to the notice of this Court that similar issue was decided by the Division Bench of this Court in W.A.No.831 of 2006 and the Division Bench of this Court decided the issue holding that the Librarians cannot be considered as teachers and therefore, the petitioner in the present writ petition cannot re-agitate the said issue, which was already decided by the Division Bench.

3. I have heard Sri Abhinand Kumar Shavili, learned counsel appearing for the petitioner, learned Government Pleader for Agriculture for the State of Telangana appearing for the 1st respondent, learned Government Pleader for Agriculture for the State of Andhra Pradesh appearing for the 2nd respondent and Sri T.Durga Reddy, learned Standing Counsel for the respondents 3 to 5.

4. In Writ Appeal No.831 of 2006, the Division Bench held as follows:

“Much emphasis was laid by the respondent on the list of duties, which included “conduct orientation classes to fresh students”. A Circular issued in this regard is also placed before this Court. A perusal of the same discloses that along with five officials of the University, a Librarian is required to guide the fresh entrants, as to the manner in which they can have access to the library. Even by stretched interpretation of that clause, one cannot come in the conclusion that an Assistant Librarian is assigned with duties of teaching.

The learned Single Judge, in fact, arrived at the same conclusion. What, however, weighed with him was that the appellant herein was assigned with duties of teaching on certain occasions. Even that, was by the Principal of the College and not as a matter of compliance with the general circular or statutes issued by the University. The so-called teaching was about the manner in which the library facilities are to be used. The petitioner in the other writ petition was denied the relief on the sole ground that he did not take such classes.

The classification of an employee of an organization into a particular category would depend upon the relevant rules as well as the nature of duties that are assigned to the incumbent in general. Mere assignment of duties to an individual without reference to any general duty chart cannot be a factor to be taken into account, in this behalf.

We, therefore, allow the Writ Appeal and set aside the order

passed by the learned Single Judge in the Writ Petition.”

5. The learned counsel appearing for the petitioner relied on some judgments of other High Courts which are not applicable to the facts of the present case. Further, since the issue has been completely decided by the Division Bench of this Court in W.A.No.831 of 2006 and it became final and therefore, the relief which has been sought by the petitioner in the present writ petition cannot be granted to him.

6. Following the ratio laid down by the Division Bench of this Court in W.A.No.831 of 2006, dated 01-12-2014, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed.
No costs.

R.KANTHA RAO, J.

01st June, 2015.

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HON'BLE SRI JUSTICE R.KANTHA RAO

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01st June, 2015.

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