

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.4356 of 2016

ORDER:

The petitioner was appointed as a lecturer in S.V.U. College in the year 1979 in the faculty of Statistics. He was promoted as a Reader and thereafter a Professor in the year 1998. He claims that he is the senior most among Professors in the S.V.U. College of Sciences and thus he is eligible for being appointed to the post of Principal. The University framed certain guidelines vide proceedings dated 22.12.2011 for appointment to the posts of Principal or Vice Principal and as per the same, the seniority is the criteria. Earlier, he was appointed as Vice Principal in the year 2014 and while working as such he attained the age of superannuation of 60 years. However, by virtue of the G.O.Ms.No.59 Higher Education (UE) Department dated 24.12.2014 enhancing the age of superannuation from 60 years to 62 years, he was re-inducted and was allowed to continue in service. But, when his junior, 3rd respondent, was promoted as Principal by proceedings dated 06.01.2016, the present writ petition is filed.

2. The 1st respondent filed a counter-affidavit stating that one K.V.Subbaraya Sarma was senior to the petitioner and he was appointed as a Principal from 01.02.2014 to 30.11.2014. At that time, the petitioner was appointed as a Vice Principal and he was continued as such till 30.11.2014 when he retired from service on attaining the age of superannuation. After the retirement of the petitioner and the said K.V.Subbaraya Sarma, one Professor K.Yellamma was appointed as a Principal and the 3rd respondent

was appointed as a Vice Principal with effect from 01.12.2004. But, by virtue of the orders in G.O.Ms.No.59 Higher Education (UV) Department, dated 24.12.2014 enhancing the age of superannuation from 60 years to 62 years, the petitioner as well as the said K.V.Subbaraya Sarma were re-inducted. Thereafter, Professor K.Yellamma filed W.P.No.8941 of 2015 seeking to continue her as Principal for a period of two years or till she attains the age of superannuation and this Court ordered status quo. As per the said order, she continued as a Principal, however, she submitted her resignation on health condition on 06.01.2016 and as a consequence, the Vice Principal, 3rd respondent, was appointed as a Principal by proceedings dated 06.01.2016.

3. The 3rd respondent also filed a counter-affidavit stating that the post of Principal is a selection post and seniority cannot be sole criteria for making such appointment. It was stated that there were serious allegations against the petitioner for which he was facing disciplinary action. It was further stated that as per the revised guidelines dated 22.12.2011, it is clear that one should have two years tenure as Principal, but the petitioner is going to retire on 30.11.2016. Earlier, the petitioner was retired from service on 30.11.2014, but was reinstated by proceedings dated 24.12.2014. The 3rd respondent further stated that he took charge on 06.01.2016 and is retiring from service in the month of November 2017.

4. The revised guidelines issued by the 1st respondent deal with one person – one post for the academic and administrative positions and the relevant guidelines read as follows:

- (a) Resolved to recommend for the appointment of Principal/Vice Principal to the constituent colleges by seniority in the respective colleges among the

Professors who will hold the office during the pleasure of the Vice Chancellor. However, those who have already served as Principal/Vice Principal of SVU Constituent Colleges for full time are not eligible to become Principal/Vice Principal.

(b) Resolved to recommend having one Warden for each college hostel who will be appointed for two years and he will hold the office during the pleasure of the Vice Chancellor.

(c) Resolved to recommend for the constitution of the college council for each college with the following:

i. Principal of the college.

ii.Vice Principal of the college.

iii. All Heads of the Departments of the college.

iv. Warden of the college hostel.

(d) Resolved to recommend for tenure of two years to all the administrative positions like Principal, Vice Principal and Head of the Department. Further resolved to give order to all the administrative positions at a time i.e., for two years.

5. There is no dispute that consequent to the enhancement of age of superannuation from 60 years to 62 years, one K.V.Subbaraya Sarma and the petitioner, who were earlier retired from service on attaining the age of superannuation, were re-inducted. Admittedly, they are seniors to the 3rd respondent. But, as stated above, after retirement of the petitioner and the said K.V.Subbaraya Sarma, one Professor K.Yellamma and the 3rd respondent were appointed as Principal and Vice Principal respectively and consequent to the resignation of Professor K.Yellamma, the 3rd respondent was appointed as Principal of the college by proceedings dated 06.01.2016. The petitioner challenged the said proceedings on the ground that he is senior to

the 3rd respondent.

6. Learned Counsel for the 3rd respondent submits that the petitioner does not possess the requisite period of two years tenure and he is going to retire on 30.11.2016.

7. It is clear that the petitioner was re-inducted into service due to fortuitous circumstances on enhancing the age of superannuation, but for which the petitioner would have retired from service. No doubt, the petitioner is senior to the 3rd respondent. But, the petitioner is having only four months tenure reckoned from today. The 3rd respondent has been functioning as Principal from January 2016 and the balance of convenience lies in favour of the 3rd respondent, who earlier worked as Vice Principal. Hence, this Court is not inclined to exercise its discretionary jurisdiction merely on the ground that the petitioner is senior to the 3rd respondent.

8. The Writ Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

26-07-2016

Gsn