

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT APPEAL No.576 OF 2015

JUDGMENT: (per the Hon'ble Dr. Justice B.Siva Sankara Rao)

The appellant was the unsuccessful petitioner in W.P. No.37687 of 2014 vide impugned order of the learned single Judge dated 01.06.2015. The writ petition was maintained against the five respondents who are also the respondents to the appeal viz., the State of Telangana represented by its Secretary, Agricultural and Co-operation, State of Andhra Pradesh represented by its Secretary, Agricultural and Co-operation, Acharya N.G.Ranga Agricultural University (for short, 'ANGRAU') represented by its Registrar, Professor Jaya Shankar Telangana State Agricultural University (for short, 'PJSTSAU') and College of Home Sciences, Saifabad, Hyderabad. The writ petitioner claims that he is performing the duties within the meaning of teacher and he is entitled to continue in service till completion of the age of 60 years, however, the 4th respondent was going to retire him from service on attaining the age of 58 years on 31.12.2014.

2) The factual background is that he is initially appointed as Assistant Librarian in ANGRAU (R-3) by proceedings dated 13.04.1993 and joined as such on 21.04.1993 as Assistant Librarian at Agricultural College, Aswaraopet, Khammam District which is under the control of the ANGRAU supra, now after bifurcation under the control of PJSTSAU (R-4). By the date of filing the writ petition he was Assistant Librarian (selection grade) and he was designated as Assistant Professor (selection grade) in the Library and Information Science at College of Home Sciences (R-5), Saifabad, which is one of the libraries of the PJSTSAU, 4th respondent, supra. It is his claim that he is the Assistant Professor in Library and Information Sciences by virtue of the nature of duties he is discharging and can be recognized as part of teaching cadre since Assistant Professors in physical education have been recognized as of teaching cadre and as per the university regulations the age of superannuation of teachers is 60 years and he is entitled to such benefit and thereby entitled to continue till completion of 60 years and 4th respondent cannot retire him after completion of 58 years by treating as if he is at par with non-teaching staff. He sought for a direction to continue in service accordingly.

3) The undisputed fact is that 3rd respondent university-ANGRAU after the State bifurcation from composite State of Andhra Pradesh into Andhra Pradesh and the State of Telangana, was bifurcated so far as State of Telangana concerned as PJSTSAU supra and the petitioner is working under the control of the PJSTSAU since working in the college of Home Sciences, Saifabad-R5.

4) The respondents contended that the Librarians and Assistant Librarians duties are different

to the Assistant Director of Physical Education and consideration of the Assistant Director of Physical Education as teacher by the Supreme Court cannot be equated to the claim of petitioner as Assistant Librarian within the meaning of teaching faculty to continue his service beyond 58 years for not part of teaching cadre and UGC has not recommended any age of retirement for librarians, apart from Librarians' activities are not involved in teaching, research and guidance. It is further contended that 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 library facilities available in the library and as such mere introduction of non-credit course does not entitle him to treat as teacher, for the university not recognized the Librarians and Assistant Librarians as teachers so to claim. The respondents in support of said contentions supra placed reliance on a Division Bench expression in W.A. No.831 of 2006 holding Librarians cannot be considered as teachers. It is the contention therefrom that the writ petitioner thereby cannot re-agitate the issue since already decided by Division Bench of this Court.

5) The learned Single Judge of this Court by extracting the relevant para of the judgment of the Division Bench in W.A. No.831 of 2006 held that the issue has been completely decided by the Division Bench in the writ appeal supra and that became final, therefore, the writ petition relief cannot be granted and dismissed the writ petition.

6) Impugning the writ petition dismissal judgment of the learned Single Judge as contrary to law and weight of the evidence, that the learned single Judge failed to appreciate the material on record in its correct perspective and simply influenced by the Division bench Judgment in W.A. No.831 of 2006 without appreciating the change in the activities and inclusion of teaching activity in the library and information science whereas, the counsel for respondents supported to the writ petition order of the learned single Judge saying the issue became final by the expression of the Division Bench and not left open to reagitate. Heard the learned counsel for the petitioner and the respective counsel for respondents and in particular, counsel for the 3rd respondent and 1st respondent and perused the material on record.

7) The I.C.A.R in its 74 academic council meeting held on 27-28 May, 2003, had resolved to introduce the course in Library and Information Science for under-graduate students and also introduced Library Science course in PG level. It is based on the recommendations of ICAR, the respondent Universities introduced the non-credit compulsory course in Library and Information Sciences for MSc and PH.D students, from the academic year 2009-2010 onwards and the course was also assigned a course number PGS-501 in the Library and Information Sciences. Consequently the nature of duties being performed by librarians are redesignated as Assistant Professors. Further more the job chart of Assistant Professor in Library and Information Science of the University is furnished vide U.P.Note No.50587/OP/A4/2005 dated 07.02.2014, S.No.5-11. The contention of the appellant therefrom is that one Smt.Sugunavathi who was appointed as a Librarian along with the

appellant in the 3rd respondent University was even allowed to continue up to the age of 60 years (in the united State of Andhra Pradesh) in the bifurcated Sri Venkateswara Veterinary Science University and the appellant who was appointed in the composite University i.e., 3rd respondent University way back in 1993, stands on a better footing to the Writ Appeal 831 of 2006 respondent as by then the 3rd respondent University had not introduced a course in Library and Information Science. The appellant contends that he has been discharging duties of a teacher in the newly introduced non-credit compulsory course from the academic year 2009-2010 as a mandatory course in all the colleges of the University, with regular classes and by marking attendance of the students, setting examination papers and evaluating their performance in the final examinations, which would demonstrate that the appellant has been discharging the duties of the teacher and he is entitled to be continued in service up to the age of 60 years on par with other teaching staff of the university. The Single Judge relied on the judgment in Writ Appeal No.831 of 2006 of the Division bench in holding that the issue had been become final, however the fact remains that, it was subsequent to that expression only the University has introduced the compulsory non-credit course in Library and Information Services, which is from the academic year 2009-2010. The respondent in the Writ Appeal No.831 of 2006 had worked as an Assistant Librarian till retired from service in the year 2000; by which time neither Academic Council had passed a resolution to introduce a course nor the course was introduced. The learned single Judge did not notice the fact that the Academic Council had resolved to introduce the course on 13.05.2003 and the actual course was introduced from academic year 2009-2010 and the status of the Librarian has been thereafter changed to that of a teacher with the introduction of compulsory non-credit course with a prescribed syllabus from the academic year 2009-2010. Further, as per the Post Graduate studies Regulations of June, 2010, 8.b(i) in case of candidates admitted from 2009-2010 and onwards, as per the Academic Council resolution Nos.244, dated 14.06.2010 it was decided in introducing non-credit compulsory course by made it compulsory for Masters programme, included in P.G.curricula. Only Ph.D students may be exempted from these courses if already during Master's degree, that as per the P.G. Regulations June, 2010 the non-credit compulsory course is considered relevant for student's research work.

8) Apart from the above, the certificate issued by the 3rd respondent-ANGRAU dated 16.01.2013 represented by its Associate Dean is reading very clearly that, the writ petitioner- Assistant Librarian, College of Home Sciences, Hyderabad is assigned to offer the non-credit compulsory course of M.Sc, Ph.D (Home Sciences) students from 1st semester (August, 2009 onwards) and indicated the course number as PGS-501 with title 'Library and Information Services-1 (0+1). The post accorded studies regulations of the University of the year 1980 as amended up to date till June, 2010 particularly from Regulation 8(b)(i) under the title of 8(b) credit requirement for Ph.D programme also reads that, in case of candidates admitted from 2009-10 and onwards, the credit requirements shall be as follows: (academic council resln. Nos.2444, dated 30.05.2009 and 2461, dated 08.04.2010 and Proc.No.16261/PG/2010, dated 14.06.2010).

9) The Andhra Pradesh Agricultural University Act 24 of 1963 which came into force with effect from 04.05.1964 under which Universities 3rd and 4th respondents since covered, gives an inclusive definition of 'teacher' which defines under Section 2(n) as "Teacher includes a professor, reader, lecturer or other person appointed or recognized by the University for the purpose of imparting instruction or conducting and guiding research or extension programmes, and any person declared by the statutes to be a teacher". From this definition imparting instructions or conducting guiding in research or extension programmes come within the meaning of teaching to declare a person with the status of Teacher. Further, the University by then 3rd respondent, vide proceedings dated 07.02.2014 in U.O.Note No.50587/OP/A4/2005 subject to reference that university librarian, Central Library is required to furnish the job charts in respect of Assistant Professors/Associate Professors-Professors of Library Sciences for taking further course of action at this end. The proceedings were issued on behalf of the University by the Assistant Registrar, dated 10.02.2014 by addressing including to the University Librarian. The job chart of Assistant Professors/Associate Professor (LIS), College libraries contain 20 guidelines. Thus assisting students and research scholars in searching literature, imparting instructions and guiding and taught students importance and the manner in which Library facilities are to be used and as to which source among the data base, e-resources, printing resources and digital library etc., are useful for their research and offering (0+1) non-credit compulsory course, library and information services for best graduate students and for Ph.D students, taking operation classes to the newly admitted students and taking them library tour and also on how to utilize library resources and e-resources facilities are part of the job chart conditions. Once the job charts are required and minimum credit requirements are to be followed for not only Masters Programme but also M.Sc., Statistics and Doctoral programmes. Though the proceedings of the university through its Registrar, dated 06.09.2013 No.946/OP/A4/2013 of re-designation of the Librarians and Physical Directors working in all colleges concerned under U.G.C pay-scales as lecturers in library sciences and lecturer in physical education referring to the Government Orders for such re-designation, even from such saying in saying they shall retire on attaining age of superannuation of 58 years as the library professional come under non-vacation academic staff, same is per se untenable when they are within the statutory meaning of teacher defined under Section 2(n) of the Andhra Pradesh Agricultural University Act, 24/63 and for the other reasons referred supra.

10) In fact, the University proceedings vide memo No.50587/OP/A4/2005, dated 31.04.2014 speaks that the University Librarian is informed that orders have been issued vide proceedings No.946/OP/A4/2013, dated 06.09.2013 and G.O.Ms.No.35, H.E (U.E.I-I) Department, dated 16.06.2003, University Library professionals shall be treated as non-vacation academic staff, with responsibility of offering academic services to various departments of the university. However in saying they cannot be treated as teachers of the University is also not tenable. The catalogue of the

Post Graduate Courses of the University contains the compulsory non-credit course syllabus for the Library users with skills to trace information from libraries efficiently to appraise them of information and knowledge resources to carry out literature survey, to formulate information, information search, strategies and use to modern tools of information search. On practicals introduction of library and its services role of library in Education and Research and Technology, transfer, classification systems and organization of library source of information intricacies of abstracting and indexing services tracing information from reference resources etc. The Course evaluation is also undertaken in the University for the academic years 2009-10 onwards and at the cost of repetition, the petitioner Abdul Hakeem, Assistant Librarian, College of Home Sciences, Hyderabad is assigned to offer the non-credit compulsory course to M.Sc and Ph.D, Home Sciences students from 1st semester of August, 2009 onwards to said PGS-501 course supra with title Library and Information Services-I (0+1). From this the Division Bench expression concerned it is of the year 2006 and it was observed from the duties as on that date under the claim of the writ petition in question of Assistant Librarian is not assigned with duties of teaching. But for even at times on any occasion only about manner in which library facilities are to be used and he did not even take any such classes and mere assignment of duties to an individual without reference to any general duty chart cannot be a factor to be taken into account in so concurring to the conclusions of the learned single Judge against the writ petitioner therein from the facts therein the writ appeal was dismissed.

11) Here the facts are entirely different and in the scenario there is a sweep change more particularly from the year 2009-10 academic year from the post-graduate studies regulations of 1980 amended in 2010 referred supra particularly from clause 8(b)(i) reproduced above with credit requirements and with post-graduate courses catalogue of 2010 and providing of course evaluation and the course and the teaching required is to equip scales to trace information etc., and imparting academics therein and same is when within the meaning of teaching as defined by the Apex Court in ***P.S.Rama Mohana Rao V. A.P.Agricultural University***^[1] where the Apex Court held referring to clause (n) of Section 2 which defines teacher and the regulation speak age of requirement for teachers shall be 60 years provided the competent authority to review at any time after the employee attains the age of 58 years to retire him if necessary with three months' prior notice or three months' salary thereof and once the age of the teachers' is 60 years and other employees is 58 years but for clause (iv) employees to 60 years, the appellant therein working as Physical Director in the Agricultural University was held to be a teacher to continue till completion of 60 years for the Act or the Rules and Regulations not specified the duties and functions of Physical Director. Once his activity involves guiding the students about rules of various games etc., apart from other activities. It was further held that, unless students are guided about the rules and practices of the game by the Physical Director, they will not ably play and participate in the game so also in the sports and the Physical Directors thereby come within the definition of 'teacher' under Section 2(n) of the University Act.

12) Once, such is the case, the writ petitioner, appellant herein also comes within the definition of teacher and thereby entitled to continue in service till completion of 60 years of age.

13) Accordingly and in the result, the writ appeal is allowed by setting aside the order dated 01.06.2015 in W.P. No.37687 of 2014 of the learned Single Judge and it is made clear that the writ petitioner/appellant performs the functions within the meaning of ‘teacher’ defined in Section 2(n) of the Act and is entitled to continue in service till completion of 60 years to attain the age of superannuation and with all consequential benefits. There shall be no order as to costs.

14) Consequently, miscellaneous petitions in the writ petition pending, if any, shall stand closed.

SANJAY KUMAR, J

Dr.B.SIVA SANKARA RAO, J

13-07-2016
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^[1] (1997)8 SCC 350