

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.45297 of 2018

ORDER:

This writ petition is filed seeking the following reliefs:

- a) to call for the records pertaining to proceedings dated 14.08.2018 issued by the 2nd respondent, through which the 4th and 5th respondents were appointed as Professor and Vice Principal and Manager (Administration) respectively and consequently set them aside;
- b) to call for the records pertaining to proceedings dated 03.12.2018 issued by the 2nd respondent and set it aside as bad, illegal, biased, arbitrary, discriminatory, non-application of mind, contrary to service conditions of the petitioner/appointment order issued by the 2nd respondent management, beyond the brief, misleading and unconstitutional; and
- c) to issue a writ of Mandamus, directing the respondent management to reinstate the petitioner as Director of the 2nd respondent Institution with all consequential benefits and powers as available prior to his oral termination and continue him till he attains the age of 65 years as Director of the 2nd respondent Institution by holding the action of the respondents in orally terminating the petitioner as bad, illegal, arbitrary, discriminatory and unconstitutional and contrary to the very promise/clause mentioned by the management in the appointment order as unconstitutional.

Heard learned counsel for the parties.

It has been contended by the petitioner that he worked as Professor with JNTU and thereafter the 2nd respondent had issued an advertisement on 25.09.1998 for filling up the post of Director. The petitioner contended that since he was fully eligible and qualified for such post, he had responded to the said advertisement and, after undergoing regular selection process, he was appointed as Director of the 2nd respondent Institution vide proceedings dated 26.11.1998. The petitioner further contended that his appointment was subject to certain terms and conditions and one such condition is that his date of superannuation would be as per AICTE and UGC norms, therefore, he is entitled to be continued as per AICTE and UGC norms, but the respondents, without following the norms of AICTE and UGC, have retired him on attaining the age of 60 years vide proceedings dated 14.08.2018. Thereafter, the petitioner has submitted a representation on 16.08.2018 requesting the respondents to continue him upto the age of 65 years strictly in terms of AICTE and UGC norms. Later, challenging the proceedings dated 14.08.2018, the petitioner has filed W.P.No.39511 of 2018, and this Court was pleased to pass interim order on 02.11.2018 directing the respondents to consider the representation dated 16.08.2018 submitted by the petitioner and pass appropriate orders thereon within four weeks from the date of receipt of a copy of the order. Pursuant thereto, the respondents have considered the representation of the petitioner and passed the order dated 03.12.2018 rejecting the case of the petitioner. Challenging the same, the present writ petition is filed.

Counsel for the petitioner submitted that when the appointment of the petitioner is subject to certain terms and conditions and one such condition is that his date of superannuation would be as per AICTE and UGC norms, the action of the respondents in retiring the petitioner on attaining the age of 60 years without following the UGC and AICTE norms, is arbitrary and illegal and the petitioner to be continued in service upto the age of 65 years by duly following AICTE and UGC norms.

Counsel for the petitioner has drawn attention of this Court to the UGC Regulations on minimum qualifications for the appointment of teachers and other academic staff in Universities and Colleges and other Academic staff in Universities and Colleges and measures for the maintenance of standards in higher education, 2010, which was published in the Gazette of India on 18.09.2010, and contended that in respect of the age of superannuation, Regulation 3 (i) of the said UGC Regulations clearly states as follows:

“In order to meet the situation arising out of shortage of teachers in Universities and other teaching institutions and the consequent vacant positions therein, the age of superannuation for teachers in Central Educational Institution has already been enhanced to sixty five years”

Counsel for the petitioner also submitted that even in respect of the teachers in Technical Institutions, AICTE notification dated 22.01.2010 clearly states that the age of superannuation for teachers in Technical Institutions has been enhanced to sixty five years. Counsel further contended that as per the terms and conditions mentioned in

the appointment order dated 26.11.1998, the petitioner should be allowed to continue in service upto 65 years and the action of the respondents in retiring the petitioner earlier to the age of 65 years is arbitrary and illegal and, therefore, contended that appropriate orders be passed in the writ petition by setting aside the impugned rejection orders dated 03.12.2018 and direct the respondents to continue the petitioner in service till he attains the age of 65 years.

Counsel for the petitioner also contended that in the impugned rejection orders dated 03.12.2018, the respondents, while rejecting the representation of the petitioner, have raised irrelevant issues that the petitioner had indulged in certain irregularities and tampered the records to demonstrate that he has been discharging the duties of a teacher. Counsel further contended that the impugned rejection order also discloses that since the petitioner never discharged the duties of a teacher and was only discharging the duties on administrative side, he was retired on attaining the age of 60 years and the benefit of 65 years cannot be extended to him.

Counsel appearing for respondent Nos.1 and 2 had contended that the petitioner was never appointed as a teaching staff and he was only discharging his duties as a Director on administrative side and well in advance before his retirement i.e., in November, 2017 itself, the petitioner was informed that he would be retiring from service on attaining the age of 60 years i.e., in the end of February, 2018 and any service rendered after February, 2018 would be treated as adhoc or

extended service and that AICTE and UGC regulations are applicable only for those involved in classroom teaching in order to attract the eligible persons in teaching career, but not to an individual who discharges duties on administrative side. Counsel for respondent Nos. 1 and 2 further contended that respondent No.2 is affiliated to JNTU, and in JNTU, the teaching staff are continued upto 60 years and the Regulations of AICTE have not been implemented in respect of JNTU. Counsel also contended that when the 2nd respondent is only an affiliated Institution to JNTU, the 2nd respondent is bound to follow JNTU norms and accordingly the 2nd respondent has rightly rejected the case of the petitioner to continue him beyond 60 years, therefore, there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions made by the parties, is of the considered view that when the University to which the 2nd respondent is affiliated is following the age of 60 years as the date of superannuation, the petitioner, who is working in the affiliated Institution, cannot claim the benefit of excess age than what is being followed in the parent University i.e., JNTU. Though AICTE has enhanced the age of superannuation in respect of Technical Institutions, the same was not adopted by JNTU and when the staff of JNTU are continued upto the age of 60 years, the petitioner cannot contend that he should be continued upto the age of 65 years in terms of AICTE regulations. A perusal of the appointment order of the petitioner shows that his date of superannuation would be as per

AICTE and UGC norms. However, at the relevant point of time, the age of superannuation as per AICTE and UGC norms was 60 years, and the appointment order never said that the age of superannuation would be revised as and when AICTE and UGC norms are revised. So, the benefit of revised Regulations, which are issued by UGC in 2010 and published in the Gazette of India on 18.09.2010, cannot be applicable to the petitioner, who was appointed way back on 26.11.1998, more so when the Regulations of UGC issued in 2010 are not made applicable to JNTU. Therefore, there are no merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

4th September, 2019
v v