CNR: KAHC010631932026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 2095 OF 2026 (S-RES)

BETWEEN:

STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF HIGHER EDUCATION
M.S. BUILDING, 6TH
BENGALURU 560 001.

...APPELLANT

(BY SRI. M N SUDEV HEGDE, AGA)

AND:

1. DR. KESHAVAMURTHY.T.,
S/O B.V THIMMEGOWDA.
AGED ABOUT 60 YEARS,
PHYSICAL EDUCATION DIRECTOR,
UNIVERSITY COLLEGE,
(A CONSTITUENT COLLEGE OF
MANGALORE UNIVERSITY),
HAMPANAKATTA,
MANGALURU -575 001.

2. MANGALORE UNIVERSITY,
REP. BY REGISTRAR,
MANGALA GANGOTHRI,
KONAJE
MANGALURU-574 199.

Digitally signed by MALA K N
Location: HIGH COURT OF KARNATAKA

3. PRINCIPAL,
UNIVERSITY COLLEGE,
(A CONSTITUENT COLLEGE OF
MANGALURU UNIVERSITY) HAMPANAKATTA
MANGALURU-575 001.

…RESPONDENTS

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A)SET ASIDE THE ORDER DATED 04/04/2025 PASSED IN WP NO.15808/2024 AND B) ISSUE ANY OTHER ORDER/DIRECTIONS.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

Aggrieved by the order of the learned Single Judge in Writ Petition No.15808/2024 (S-RES) dated 04.04.2025, the present intra-court appeal has been filed by the State. The petitioner's claim for extension of his retirement age from 60 to 62 years is under challenge in this appeal.

2. For convenience, the parties shall be referred to as per their ranking before the learned Single Judge.

I. <u>Facts of the writ petitioner:</u>

3. The writ petitioner, Dr.Keshavamurthy T., was appointed as Physical Cultural Instructor by Mangalore University under Official Memorandum dated 24.07.1996 and was initially posted to Field Marshal K.M.Cariappa College, Madikeri. He obtained a Ph.D. in Physical Education in the year 2009 and contended that, apart from his duties as Physical Education Director, he had been discharging academic responsibilities by taking theory and practical classes for B.P.Ed. and M.P.Ed. students during the academic years 2015-16 and 2016-17. The University recognised him as a Research Guide by its letter dated 12.06.2015, followed by an Official Memorandum dated 25.04.2016 provisionally admitting research candidates under his guideship. By Official Memorandum dated 07.04.2017, his pay was fixed in the UGC pay scale of Rs.37,400–67,000/- with AGP of Rs.9,000/- and he was re-designated as Deputy Director of Physical Education with effect from 31.07.2010. He further relied upon the Government Orders dated 17.11.1997 and 20.12.1997, the UGC communication dated 19.10.2006 and the State Government Order dated 15.10.2009, contending that Physical

Education personnel had been recognised as teachers and were consequently entitled to the enhanced age of superannuation of 62 years. He was promoted as College Director of Physical Education and Sports in Academic Level 14 with effect from 20.09.2021, as communicated on 17.06.2023. However, the Government Order dated 28.09.2015 treated Physical Education Directors drawing UGC pay scales as a category not entitled to the enhanced retirement age. Thereafter, by Official Memorandum dated 30.04.2024, he was informed that he would retire on 30.06.2024, on attaining the age of 60 years. Aggrieved by the said decision, he instituted W.P. No.15808/2024 (S-RES), seeking to challenge the Government Order dated 28.09.2015 and the consequential notification dated 30.04.2024, and for a direction to continue him in service till he attained the age of 62 years.

II. <u>Order passed in the writ petition:</u>

4. The learned Single Judge, by order dated 04.04.2025, allowed the writ petition by following the decisions of the coordinate Benches of this Court in W.P.Nos.441-443/2017 and W.P.No.12467/2017, wherein the Government

Order dated 28.09.2015 and the consequential action taken thereunder had been interfered with in respect of the petitioners therein. Holding that the issue raised was covered by the said decisions, the learned Single Judge set aside the Government Order bearing No. ED 254 UNE 2014 dated 28.09.2015 and the consequential notification dated 30.04.2024, insofar as they related to the writ petitioner, and directed that he be continued in service till he attained the age of superannuation of 62 years. Aggrieved by the order passed by the writ court, the petitioners have preferred the present intra-court appeal.

III. <u>Grounds of appeal:</u>

5. Aggrieved by the order dated 04.04.2025, the State Government has preferred the present writ appeal contending that the learned Single Judge failed to appreciate the distinction between regular teaching faculty appointed against sanctioned teaching posts and Physical Education Directors, whose appointment, cadre and service conditions are governed by a different framework. It is contended that the Government Order dated 15.10.2009 enhanced the age of superannuation

from 60 to 62 years only in respect of the specified teaching community drawing UGC scales and did not extend the benefit to all categories of employees working in universities and constituent colleges. The State further relies upon Rule 95 of the Karnataka Civil Services Rules and the Government Order dated 28.09.2015 to contend that the respondent was required to retire on attaining 60 years of age. The appellants also contend that the learned Single Judge extended the benefit of enhanced superannuation merely on the basis of parity, without examining the nature of the respondent's post and duties, and failed to consider the binding decision of the Division Bench in W.A.No.5670/2011 and connected matters (***State of Karnataka -vs- Dr.R.Halesha***), which was upheld by the Supreme Court in ***Jagdish Prasad Sharma v. State of Bihar***[1]. It is their further case that the enhancement of retirement age is a matter of State policy, that the UGC recommendations do not operate automatically in the absence of a conscious decision by the State, and that extending the benefit to the respondent would have wider financial and

[1] Civil Appeal Nos.5527-5543/2013

administrative consequences. On these grounds, the State seeks setting aside of the order under appeal.

6. We have heard Sri.M.N.Sudev, learned AGA for the appellant/State. Upon consideration of the pleadings, the records placed before this Court and the submissions advanced on behalf of the petitioner the following question arises for our consideration:

> *Whether the appellant/respondent No.1 has made out any ground warranting interference with the order dated 04.04.2025 passed by the learned Single Judge in W.P.No.15808/2024 (S-RES)?*

IV. REASONS AND CONCLUSION:

7. We have considered the submissions and the grounds urged by the State and the material placed on record. The issue raised in this appeal is squarely covered by the principles laid down ***P.C.Modi -vs- Jawaharlal Nehru Vishwa Vidyalaya and Another***[2] and ***P.S.Ramamohana Rao -vs- A.P.Agricultural University and Another***[3]***.*** In view of the law laid down in the said decisions, and the consistent view

[2] 2023 SCC OnLine SC 1664
[3] (1997) 8 SCC 350

taken by this Court in respect of the entitlement of Physical Education Directors, we find no ground to take a different view. The learned Single Judge has rightly applied the said legal position to the facts of the case. We, therefore, find no justifiable reason to interfere with the order under appeal.

8. Though the matter is listed in 'fresh matter', in view of the judgment of the Supreme Court, we do not find any valid reason to issue notice to the respondents and proceeded to dispose of the appeal at this stage itself.

Accordingly, the writ appeal is dismissed.

The order of the learned Single Judge in Writ Petition No.15808/2024 (S-RES) dated 04.04.2025 is hereby affirmed.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 5