
Smt. Jayashree P. Hiremath Vs University of Agricultural Sciences

Writ Petition No. 12127 of 1999

Court: Karnataka High Court

Date of Decision: March 8, 2001

Acts Referred:

Karnataka State University Statute Rules " Rule 30 (4B)

Citation: (2001) 3 KCCR 1802

Hon'ble Judges: Chidananda Ullal, J

Bench: Single Bench

Advocate: S.M. Babu, for the Appellant; Kesvy and Company, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Chidananda Ullal, J.

The Petitioner herein presently working as Assistant Professor in Basic Science and Humanities in the Respondent-

University of Agricultural Sciences had prayed for quashing of endorsement dated 10.3.1995, copy as at Annexure-P to writ petition, in passing

whereof, the Respondent had declined to regularise a day"s service on 26.2.1986 and further for issue of writ of mandamus directing the

Respondent-University to count her service under Rule 39(4-A) to have continuity of service from 29.4.1985 (temporary service) and further to fix

her pay and other consequential benefits as per Rule 30(4-B) of the University Statute.

2. While arguing the matter, the learned Counsel for the Petitioner Sri S.M. Babu submitted that the Petitioner herein was earlier working as

Instructor from 29.4.1985 to 25.2.1986 on temporary basis and that thereafter she came to be appointed as Instructor in Basic Science and

Humanities on regular basis and further that she was posted to work at Bidar. It was also argued by him that the Petitioner had to travel from

Bangalore to Bidar to reach the outstation on 27.2.1986 when she was regularly appointed and as such, there was a break of service for half a day

on 26.2.1986. According to him, the date of travel from Bangalore to Bidar on 26.2.1986 was a good reason for her absence from duty on that

day and as such, the Respondent-University would not have considered 26.2.1986 as the date of break of service so that the Petitioner shall have

the continuity of service w.e.f. 29.4.1985 to 26.2.1986 on temporary basis and on permanent basis w.e.f. 27.2.1986 and onwards.

3. In this context, Sri Babu had also drawn my attention to what this Court had held in Writ Petition No. 10952 of 1994 dated 7.7.1994, a copy

of judgment as at Annexure-N to writ petition on that point. While taking me through the said decision, it was argued by him that in a similar

situation, this Court held that it was not proper to consider such a break in service as a break in service within the meaning of Note below of

Regulation 30(4-C)1 of the University Statute.

4. To quote the said Regulation 30(4-C)1 of the Statute and the note below, the same reads as hereunder:

30(4-C) 1. Notwithstanding the above provisions, teachers in the cadre of Assistant Professors shall also be appointed to the cadre of Associate

Professors through promotion as indicated below-

1. Teachers in the cadre of Assistant Professors doing teaching, research and Extension work with Ph.D and 12 years of experience or without

Ph.D. with 15 years of experience may be considered eligible for promotion to the cadre of Associate Professor, provided their work in

teaching/research/extension and the confidential records are satisfactory as evaluated by a Screening Committee constituted by the Vice-

Chancellor consisting of three experts in the concerned subject drawn from outside the University.

The following note is added to the Statute 39(4-C) as an explanation to the word ""experience.

Note: Experience includes and covers the service rendered by the Assistant Professor as Instructor/Research Assistant/ Extension Guide in the

University or as Demonstrator/Tutor in Degree Colleges/Post Graduate Departments of Agriculture, Horticulture, Forestry, Sericulture, Animal

Husbandry, Marketing and Co-operation and Fisheries for reckoning the total service while determining the eligibility for promotion as Associate

Professor.

5. Sri Babu had also drawn my attention to para-8 of the said judgment. To quote the same, the same reads as hereunder:

8. The learned Counsel for the University next submitted that the Petitioner was working as a Research Assistant on temporary basis upto

11.8.1980 and his services from 14.8.1980 was on permanent basis and therefore there is clear break in service of the Petitioner. As pointed out

above, at the time of his selection and appointment on permanent basis, Petitioner was already serving as Research Assistant on temporary basis

and the break was necessitated on account of his being posted at Bangalore. If such periods of absence necessitated on account of travel/transfer

are to be treated as "breaks" the very purpose of adding Note-2 will be defeated. Hence there is no merit in the objections of the Respondent.

6. According to Sri Babu, the case of the Petitioner herein is very well covered by the said decision and as such, it is just and proper to allow the

instant petition by quashing endorsement dated 10.3.1995, copy as at Annexure-P to writ petition and further to direct the Respondent-University

to count the temporary services of the Petitioner from 29.4.1985 to 26.2.1986 for the purpose of fixation of pay and increment and other

consequential benefits in tune with the provision in Regulation 30(4-B) of the Statute.

7. The learned Counsel for the Respondent-University Sri Shashidar appearing for M/s. Kesvy and Company, argued that the Petitioner herein

had resorted to the instant petition belatedly after 10 long years inasmuch as she had been issued with endorsement as long back as on 27.5.1989

declining to consider such a request by her. It was also pointed out by him that, that infact that was a second endorsement issued by the

Respondent-University, for earlier to that on 14.2.1989 on similar request being made by the Petitioner herein, the same came to be rejected under

an endorsement of similar nature. That he submitted with reference to the Reference No. 1 in the endorsement at Annexure-K to writ petition.

Hence, according to him, on the short point of delay alone, the instant petition is liable to be dismissed.

8. Sri Shashidar had also submitted that the Petitioner herein sought for regularisation under Regulation 30(4-A) of the University Statute, whereas

the regulation referred to in the decided case in Writ Petition No. 10952 of 1994 was one under Regulation 30(4-C) of the Statute. Therefore, he

prayed that the instant petition be dismissed.

9. I have carefully considered the arguments advanced by both the contending parties before me. It is an admitted fact that the Petitioner herein

had been endorsed with the communication by the Respondent-University as early as on 27.5.1989, whereby it had declined to regularise the

services of the Petitioner on disputed dated i.e. on 26.2.1986. As I see, the Petitioner herein having accepted the said endorsement issued by the

Respondent-University did not take any action till 21.6.1993, the date on which she represented yet again to the Respondent-University, copy as

at Annexure-L to writ petition. It appears that she had yet again raked up the issue of regularisation of temporary service on that day and thereafter

with the further representations on 21.1.1993 and 19.1.1995, copies as at Annexures-L and M to writ petition respectively.

10. If the Petitioner had very well accepted the endorsement dated 23.3.1989, copy as at Annexure-F to writ petition, I don't think that it was

available for her to further pursue the matter with the Respondent- University in filing the further representations to University as above before

resorting to instant petition before this Court as late as in the year 1999.

11. Litigation as such has to be put an end to at some point of time or other bearing in mind that that cannot be endless and prolonging. According

to me, this litigation too had to be put an end in dismissing the instant petition, more so, when the Petitioner, herein had accepted the endorsement

at one go as long back as on 23.3.1989 in the year 1989 upon service of endorsement, copy as at Annexure-F to writ petition, no matter that she

intermittently raised the bogey of non-consideration of her request in that regard before the Respondent-University by making representation and

further representation, copy as at Annexures-L and M to writ petition respectively.

12. It looks as if the Petitioner was inspired more to do so upon disposal of the Writ Petition in No. 10952 of 1994 on 7.7.1994, morefully

referred to in paras-(3) to (5) supra. In my considered view that could not be a reason to open the subject yet again when she long time ago in the

year 1989 given a quitous to the issue. In my considered view, at best it is at that point of time, she would have approached this Court for

redressal of her grievance, if any. Therefore, it is late in the day for her to recourse to the instant writ petition in the year 1999. It is to be observed

here that delay and latches on the part of a party stifle and arrest the relief and put an end to the very litigation.

13. In that view of the matter, I don't find any merit in the instant writ petition. Writ petition, therefore fails and accordingly stands dismissed.