

Karnataka High Court

Ishwarappa Mahalingappa Kolhar vs Director Of Technical Education on 29 May, 2023

Bench: S.Vishwajith Shettypresided Bysvsj

-1-

WP No. 84232 of 2

IN THE HIGH COURT OF KARNATAKA,  
DHARWAD BENCH  
DATED THIS THE 29TH DAY OF MAY, 2023  
BEFORE  
THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY  
WRIT PETITION NO. 84232 OF 2013 (S-R)

BETWEEN:

ISHWARAPPA MAHALINGAPPA KOLHAR,  
AGE: 72 YEARS, OCC: RETIRED PROFESSOR,  
R/O. LINGARAJ NAGAR (NORTH),  
UNKAL CROSS, HUBLI-31

... PETIT

(BY SRI. V M SHEELVANT, ADVOCATE)

AND:

1. DIRECTOR OF TECHNICAL EDUCATION,  
NEAR MAHARANI COLLEGE, BANGALORE.
2. ACCOUNTS OFFICER,  
OFFICE OF THE ACCOUNTANT GENERAL ( A & E ),  
P.B. NO. 5329, PARK HOUSE ROAD, BANGALORE-560001.
3. KLE SOCIETY,  
COLLEGE ROAD, BELGAUM,  
R/BY ITS SECRETARY,  
SHRI. BAPU G DESAI, R/O. BELGAUM.
4. BVB COLLEGE OF ENGINEERING &  
TECHNOLOGY, VIDYANAGAR,  
HUBLI-580031, R/BY PRINCIPAL.

RAKESH S  
HARIHAR

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Location: High Court of  
Karnataka, Dharwad  
Date: 2023.05.30 11:19:14  
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... RESPONDEN

(BY SRI. VINAYAK S KULKARNI, AGA FOR R1 & R2;  
SRI. MALLIKARJUNSWAMY B HIREMATH, ADVOCATE FOR R3 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 22  
OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE APPROPRIATE  
WRIT DEIRECTION OR ANY OTHER ORDER IN THE NATURE OF  
MANDAMUS DIRECTING THE RESPONDENT NO.4 TO PAY INTEREST  
ON ARRERS OF SALARY AS SHOWN IN TABLE NO.2 ANNEXURE 'E'  
TILL MAY-2013 AND FUTURE COMPOUNDED INTEREST AT 10% P.A.  
TILL REALIZATION & ETC.

-2-

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner, who is a retired Professor has approached this Court under Article 226 of the Constitution of India, seeking for the following reliefs:

(i) Issue appropriate writ direction or any other order in the nature of mandamus directing the respondent No.4 to pay interest on arrears of salary as shown in table No.2 Annexure-E till may 2013 and future compounded interest at 10% p.a. till realization.

(ii) Issue appropriate writ direction or any other order in the nature of mandamus directing the respondents to pay interest on arrears of pension and pensionary benefits as shown in table Nos.1 & 3 produced at Annexure-E and future compounded interest at 10% p.a. till realization.

2. Heard the learned counsel appearing for the parties and also perused the materials available on record.

3. The petitioner was appointed as an Assistant Lecturer in the 4th respondent College on 26.07.1967. In WP No. 84232 of 2013 the year 1983, the State Government had passed an order regarding fixation of pay to the teaching staff of technical education with effect from 01.01.1983. However, the same was not implemented in the case of the petitioner. It is under these circumstances, the petitioner had approached this Court in W.P. No.49620/2003 with a prayer to issue necessary direction for implementation of the resolution dated 01.02.1983, under which the petitioner was re-designated as lecturer for the period from 26.07.1967 to 26.09.1974, being the period he was working as Assistant Lecturer. The said writ petition was allowed by this court on 18.08.2010 and it was held that the petitioner's post was re-designated as Lecturer from 26.07.1967 to 26.09.1974 and consequently it was held that the petitioner was entitled to all the benefits including the monitory benefits as per AICTE Scale. Subsequent to disposal of W.P. No.49620/2003, by order dated 18.08.2010, the 4th respondent is said to have forwarded the report of fixing the pay of the petitioner and the same was approved by the 1st respondent on 18.01.2012.

WP No. 84232 of 2013 However, the arrears of the petitioner's pension, who had retired on 31.01.2000 was paid to the petitioner on 28.06.2013. It is under these circumstances, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that, though this Court had allowed W.P. No.49620/2003, by order dated 18.08.2010, there is a delay in settling the pension arrears of the

petitioner. He submits that the report submitted by the 4th respondent was approved by the 1st respondent on 18.01.2012 and in spite of the same, it had taken more than one and half years for the respondents to settle the arrears of the petitioner and therefore, the petitioner is entitled for applicable rates of interest on the delayed period of payment by the respondents. He submits that a representation has been given by the petitioner to the competent authority vide Annexure-D on 30.04.2012, wherein reliance has been placed on applicable circulars and the said representation remains unconsidered till date.

WP No. 84232 of 2013

5. Learned counsel for the respondents, who have opposed the petition, do not dispute that the representation submitted by the petitioner vide Annexure-D remains unconsidered till date.

6. Considering the facts and circumstances of the case, at this stage, it is not proper for this Court to grant the relief sought for by the petitioner, wherein a positive direction has been prayed to pay the arrears of the petitioner. However, the respondents are required to take into consideration the representation submitted by the petitioner seeking interest on the delayed period in settling the pension arrears of the petitioner and pass appropriate orders on the same in accordance with law. The said representation is submitted in the year 2012 and the petitioner, who is retired professor has been waiting for settlement of his dues for more than ten years and therefore, I am of the view that necessary directions are required to be issued to the competent authorities for WP No. 84232 of 2013 consideration of Annexure-D in accordance with law. Accordingly, the following:

ORDER The writ petition is disposed off with a direction to the 2nd respondent to consider the representation vide Annexure-D, dated 30.04.2012 submitted by the petitioner expeditiously, but not later than a period of three months from the date of receipt of a certified copy of this order.

Sd/-

JUDGE Vnp\*/Ct:Bck