

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA
RAO

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W.P.No. 4780 OF 2011

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ORDER:

The writ petitioner is presently serving as Head, Department of Zoology in A.N.R.College, Gudivada, Krishna District. He seeks a declaration from the court that the action of the respondents in seeking to retire him from service on attaining the age of 58 years as wrong and consequently he should be continued in service till he attains the age of 62 years. The entire case is rested upon the obligation of the respondents to implement the regulations framed by the University Grants Commission through their notification dated 24.12.1998.

Learned counsel appearing on behalf of the respondents have drawn my attention to a judgment rendered by a Division Bench on 20.1.2011 in WP Nos. 12726 of 2009 and Batch of cases wherein the issue has been concluded as under:

“It requires to be noticed that the UGC (Minimum Qualifications required for Appointments and Career Advancement of Teachers in Universities and Institutions Affiliated to it) Regulations 2000 issued in the notification bearing reference No. F.C.-1/2000 (PS) dated 23.03.2000, which supersedes the 1998 Regulations issued on 24.12.1998 contain no prescription as to the age of superannuation. On 31.03.2002

the UGC issued another notification bearing reference No. F-1-1/2002 (PS) Exemp. partly modifying the 2000 Regulations (the amendments are not germane or relevant for the purpose of this *lis*).

To conclude, in view of the decision in ***T.P.George*** and in ***Bharat Kumar [AIR 1963 SC 703]*** none of the contentions urged by the several petitioners herein commend acceptance by this court. Neither the Central Government nor the UGC has mandated an age of superannuation for teachers in State Universities or University affiliated colleges or issued any other binding instruments which could be characterised as an instrument amounting to a legislative or administrative prescription referable to the legislative power of the Parliament in Entry 66 of List-I of the Seventh Schedule of the Constitution or falling within the executive power of the Union under Art. 73 of the Constitution. In this view of the matter and on this interpretation of the legislative and executive environment we are not persuaded to hold that the orders of the State Government issued in G.O.Ms.Nos. 208 and 14 Higher Education (UE.II) Department dated 29.06.1999 and 20.02.2010 respectively; the provisions of Sec.78A of the Andhra Pradesh Education Act 1982 [as amended by the AP Act XVII of 1993], the provisions of Section 3 of the Andhra Pradesh Public Employment (Regulation of the Age of Superannuation) Act, 1984; or any rule or regulation of the

Universities under the State prescribing an age of superannuation for teachers in Universities, University or affiliated colleges whether aided or unaided, are invalid or unenforceable for want of legislative power in the State or for being in transgression of any instrument issued either by the Central Government or the UGC, as the case may be. On this analysis the several petitioners have not made out any case for interference or for a declaration as sought for or for any other relief. The writ petitions must therefore fail and are accordingly dismissed.”

In view of the ratio laid down by the Division Bench, this writ petition deserves to be dismissed and it is accordingly dismissed. But, however, without costs.

Nooty Ramamohana Rao, J

Knk

Dt : 28.2.2011