

S. R. Veerasatappa and Others

Vs

State of Karnataka and Others

Civil Appeal Nos. 1381-1383 and 536-538 of 1976

(V. R. Krishna Iyer, A. D. Koshal, O. Chinnappa Reddy JJ)

(D. A. Desai, A. P. Sen JJ)

(R. S. Sarkaria, R. S. Pathak, O. Chinnappa Reddy JJ)

(Syed M. Fazol Ali, A. D. Koshal JJ)

(V. R. Krishna Iyer, R. S. Pathak JJ)

13.03.1980

JUDGMENT

KRISHNA IYER, J. –

1. We are considering this batch of appeals, a writ petition and a special leave petition all together, as they raise a common question about the vires of Karnataka Act 35 of 1975, which was preceded by Karnataka Ordinance 2 of the 1975. The essential point raised is an to whether the statutory provision reducing the age of retirement of the teachers of the Old Mysore State from 58 years to 55 years even though enacted with the permission of the Central Government under the proviso to Section 115 [7] of the State Reorganisation act, is valid. If it is not valid the teachers concerned are entitled to salary up the age of 58 years. If the measure were valid they would have to retire at 55. The High Court has upheld the enactment but has also given to some of the petitioners partial relief against which the state seeks special leave to appeal. We are not impressed with the merits of the special leave petition filed by the state. Those who have worked as teacher beyond the age of 55 have rendered service to the state and are entitled to their salaries. The High Court was right in directing payment of salaries for the period for which they had worked. The substantial question in regard to those teachers is whether they should be deemed to have retired at the age of 55 or should be taken to have retired only on the date on which they were actually retired, on account of the Ordinance and the Act, which was much later than the point of time when they attained the age of 55. We feel that no element of fiction should be introduced in the matter of the age of retirement. In fact the teachers had worked as such until the Ordinance was promulgated even though they had by then exceeded the age of 55. In this view the High Court was right in directing the Government to treat those teachers as having retired not at 55 but on the dates on which they were actually retired.

2. The further question which has bene debated in part at the Bar relates to the competency of the State to reduce the age of 55 with the additional complexity of the proviso to section 115 [7] of the States Reorganisation Act. At the present moment we think that a welfare State should not drive the poorly paid teachers to a litigation in the Supreme Court. It will be a fair gesture on the part of the

State Government to pay on a compassionate basis and without reference to legal obligations, to each teacher a sum equal to half of the salary for the period between the date of his actual retirement and that on which he would have been 58 years of age subject to the condition that such period shall never exceed two years which means that the said half shall in no case exceed full salary for 12 months. This is a suggestion which we think is fair and equitable and learned counsel on both sides have asked for time to put it to their respective clients. Shri. Datar, appearing for the state, desires that the case may be posted three weeks later. Post it one month later.

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