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K.S. MAHALINGEGOWDA AND ORS. ETC. ETC.

v.

SECRETARY TO GOVERNMENT,  
DEPARTMENT OF VOCATIONAL EDUCATION AND ORS.

B

NOVEMBER 15, 1994

[KULDIP SINGH AND N.P. SINGH, JJ.]

C

*SERVICE LAW—Vocational Education Scheme—Appointment of part-time vocational teachers during the period from 1977-78—Claim to be regularised and be paid same salary as being paid to non-vocational teachers—Principle of 'equal pay for equal work'—Whether applicable—Held, No—Claim made liable to be rejected—However, State Government agreed to absorb on regular basis all part time lecturers working for more than ten years—Part time lecturers holding regular employment in other educational institutions—Held not entitled to regularisation under this scheme.*

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In pursuance of the priorities accorded in the National Policy on Education (1986), a centrally sponsored scheme of vocationalisation of secondary education was started by the Government of India w.e.f. February, 1988. Vocational training, under the scheme, is offered to those who have passed 10th standard, are not interested in pursuing higher education in the educational structure at 10+2+3 or professional courses and also interested in seeking avocation immediately.

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The Government of Karnataka accepted the scheme and implemented the same from 1977-78 onwards. There are full time teachers as well as part-time teachers working under the scheme. The appellants are all part-time vocational teachers appointed under the scheme at different times during the period from 1977-78 onwards. They filed writ petitions before the Karnataka High Court seeking directions to the State to regularise them in service as lecturers in the pay scales and with the conditions of service as are being given to the non-vocational teaching staff in the State of Karnataka. The writ petitions were dismissed. These appeals by special leave are filed against the judgment of the High Court.

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The appellants submitted that they are performing the same duties and are teaching equal number of units as are being done by the non-

vocational teachers in their respective institutions. It is claimed that the appellants are entitled to be regularised and be paid the same salary as is being given to the non-vocational teachers on the principle of 'equal pay for equal work.' it is further contended that the appellants have been working in part time capacity for a very long period and some of them have served for more than ten years. According to the appellants the action of the State Government in utilising their services for a long period without appointing them on regular basis is wholly arbitrary and violative of Articles 14 and 16 of the Constitution of India.

The State of Karnataka contended that the appellants, having been employed under the scheme, are a class apart and are not entitled to claim parity with the non-vocational teachers in their respective institutions. It is stated that the scheme regarding vocationalisation of education was adopted by the State with a specific objective and the employment was offered to the appellants under the scheme, keeping in view the peculiar features.

Dismissing the appeal, this Court

**HELD :** 1.1. The claim of the appellants, to be regularised as teachers and be paid the same salary as is being paid to the non-vocational teachers - based on the principle of 'equal pay for equal work' - is wholly misconceived. It is entirely within the domain of the State Government to take a policy decision and frame any scheme for the benefit of the people of the State. The vocational scheme is one of such schemes. Duration of the scheme, the financial involvement, type of vocational training and various other aspects must have been taken into consideration by the State Government while providing the mechanism to implement the scheme. When the scheme has been made to operate with the help of the part-time teaching staff it is not for this Court, ordinarily, to modify the scheme and direct the State Government to employ whole time staff to implement the scheme. Even otherwise there is no parity on facts between the vocational teachers under the scheme and other teaching staff in an educational institution. Vocational teaching is not a part of regular teaching in the institutions where the appellants are working. The method of teaching, the extent of responsibility and the requirement of academic intellect in the two sets of teaching is entirely different. (481-H, 482-A-B, H)

*Delhi Development Horticulture Employees Union v. Delhi Administration, Delhi and Ors., [1992] 4 SCC 99, relied on.*

**A** 1.2. The scheme is operating since 1977-88. The State Government may have a fresh look at the scheme and if it is to be kept as a permanent feature then the same should be appropriately revised. It would be advisable to maintain a list of part time lecturers on the basis of continuous length of service and periodic regularisation should be made out of the said list. (483-E)

**B** 1.3. The State Government has very fairly agreed to absorb on regular basis all those part-time lecturers, working in the Government institutions, who have served in that capacity by teaching requisite number of unit for more than ten years. There are large number of part-time lecturers who are holding regular employments in other educational institutions or with the State Government, public undertakings etc. The said category of part-time lecturers shall not be entitled to regularisation under the vocational training scheme despite their having served as such for more than ten years. They may go back to their regular employment if they do not wish to serve as part-time lecturers under the scheme. (483-F-H)

**D** CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7499-7502 of 1994 etc. etc.

**E** From the Judgment and Order dated 6.12.88 of the Karnataka Administrative Tribunal at Bangalore in Application No. 2697-2700 of 1988.

**F** Altaf Ahmed, Additional Solicitor General, R.K. Garg, Kapil Sibal, Rama Jois, S.S. Javali, D.V. Lakshmi Narayana, D.K. Garg, S.R. Bhat, M. Veerappa, K.H. Nobin Singh, C.B. Babu, for C.V.S. Rao, P.R. Ramasesh, S.K. Kulkarni and M.M. Kashyap for the appearing parties.

The Judgment of the Court was delivered by

**KULDIP SINGH, J.** Delay condoned.

Leave granted.

**G** Various committees and commissions - appointed by the Government of India from time to time - that have considered the question of educational reforms, have underlined the need for vocationalisation of education at the secondary level. A centrally sponsored scheme was launched by the Government of India in 1977 to promote vocationalisation.

**H** The scheme was, however, discontinued in April, 1979. Some of the State

Governments adopted the same and continued the programme on their own. In pursuance of the priorities accorded in the National Policy on Education (1986) another centrally sponsored scheme of vocationalisation of secondary education was started by the Government of India with effect from February, 1988. The main objectives of the scheme are to provide diversification of educational opportunities so as to enhance individual employability, reduce the mismatch between the demand and supply of skilled man-power and to provide an alternative for those pursuing high education. Vocational training, under the scheme, is offered to those who have passed 10th standard - are not interested in pursuing higher education in the educational structure at 10+2+3 or professional courses - and are interested in seeking some avocation immediately for the purpose of employment.

The Government of Karnataka accepted the scheme and implemented the same from 1977-78 onwards. The courses under the vocational education scheme (the scheme) may be started by the educational institutions run by the Government and also by the private institutions. Since all the courses form part of the Government scheme - to ensure a uniform standard - the institutions are required to conform to the directions of the Government issued from time to time. The Government of Karnataka, as at present, is offering about 1027 vocational courses which are being taught in various educational institutions. According to the State Government it proposes to introduce 300 courses every year during the rest of the VIIIth Plan period. The centrally sponsored scheme of vocationalisation has been taken up by the State Government with the financial assistance of the Government of India to the extent of 75% of the salary component, the State share being 25%. The Government of India has stopped its contribution in respect of the posts which were filled in VIIIth Plan [and from 1987-88 to 1989-90]. The Central Government assistance is now given only for those posts which are filled from 1990-91 onwards both at management and school level.

It has been stated in the counter filed on behalf of the State of Karnataka that the principals of the respective colleges are the appointing authorities for various posts of teachers under the scheme. The teachers appointed under the scheme and working in the private schools are the employees of the private institutions. They do not become employees of the State Government. Vocational teachers working in Government colleges are under the administrative control of the Director of Vocational Education and those working in private colleges are under the administrative and disciplinary control of the management. The vocational teachers are not

- A transferable from one institution to another. There are full-time teachers as well as part-time teachers under the scheme. The minimum work load for full time teacher, is of 26 units per week (1 hour of theory is considered as 2 units and 1 hour of practical/drawing is considered as 1 unit). Since 1982 the recruitment of full-time teachers has been stopped. The minimum workload for part-time vocational teacher varies from 4 units to 26 units.
- B It may be mentioned that for regular lecturers in pre-university colleges, workload is 16 hours per week in case of language, arts, and commerce teachers. In the case of science - teachers the workload is 20 hours per week including the practicals. According to the State Government as on today there are about 3228 part-time and full-time teachers working - under the scheme - in 311 private institutions and 159 Government institutions.
- C The part-time teachers are paid Rs. 50 per hour for theory and Rs. 30 for practicals. Part-time worker-teachers who are recruited for conducting practical classes are paid Rs. 10 to 25 per hour. There is another class of lecturers called guest lecturers who are paid Rs. 50 per lecture.

- D The appellants, in the appeals herein, are all part-time vocational teachers appointed under the scheme at different times during the period from 1977-78 onwards. They filed writ petitions before the Karnataka High Court seeking directions to the State of Karnataka to regularise them in service as lecturers in the pay-scales and with the conditions of service as are being given to the non-vocational teaching staff in the State of
- E Karnataka. The High Court rejected the contentions and dismissed the writ petitions. These appeals by way of special leave are against the judgment of the High Court.

- F We have heard learned counsel for the appellants on several occasions. Keeping in view the fact that some of the appellants have been working as part-time teachers under the scheme for over a decade, we requested the State of Karnataka through its learned counsel to consider the possibility of absorbing them on regular basis. On November 12, 1991 this court passed the following order :-

- G "We have heard learned counsel for the parties. We are of the view that this is a case where human, rather than legal problem is involved. The learned counsel for the parties have fairly agreed to look into this aspect and come out with some scheme under which the petitioners can be considered for regularisation as teachers."

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The Director of Vocational Education, Government of Karnataka, has filed an additional affidavit on behalf of the State of Karnataka wherein the background, aims and objects, scope, pattern of assistance, selection of teachers and various other aspects of the scheme have been highlighted. In para 17 of the affidavit it is stated as under :-

“It is respectfully submitted that the Government have in response to the recommendation of this Hon’ble Court have favourably considered the cases of persons appointed to Government Institutions as part of the vocational courses and who have rendered services for period exceeding 10 years, for absorption into Government services, as per Government Orders in force. The private institution would continue to be eligible for grants as per the rules governing the scheme in respect of the courses which are in force.”

Learned counsel for the appellants have vehemently contended that the appellants are performing the same duties and are teaching equal number of units as are being done by the non-vocational teachers in their respective institutions. It is claimed that the appellants are entitled to be regularised and be paid the same salary as is being given to the non-vocational teachers on the principle of “equal pay for equal work”. It is further contended that the appellants have been working in part-time capacity for a very long period and some of them have served for more than ten years. According to the learned counsel the action of the State Government in utilising the appellants services for a long period without appointing them on regular basis is wholly arbitrary and violative of Articles 14 and 16 of the Constitution of India. On the other hand, Mr. S.S. Javali, learned counsel for the State of Karnataka contended that the appellants, having been employed under the scheme, are a class apart and are not entitled to claim parity with the non-vocational teachers in their respective institutions. He forcefully argued that the scheme regarding vocationalisation of education was adopted by the State of Karnataka with a specific objective. The employment was offered to the appellants under the scheme keeping in view its peculiar features. Mr. Javali contended that the scheme which is being enforced as a policy decision of the Government cannot be altered to provide better conditions of service which are not envisaged under the scheme.

We have given our thoughtful consideration to the rival contentions of the learned counsel for the parties. We are of the view that the claim of the appellants, to be regularised as teachers and be paid the same salary as is

A being paid to the non-vocational teachers - based on the principle of "equal pay for equal work" - is wholly misconceived. It is entirely within the executive domain of the State Government to take a policy decision and frame any scheme for the benefit of the people of the State. The vocational training scheme is one of such schemes. The avowed object of the scheme is to provide vocational training for a period of one/two years to the students who do not wish to pursue academic studies beyond 10th class. It is a useful scheme which helps young men to acquire eligibility for employment in skilled jobs while they are still in the educational institutions. The scheme was a result of the policy decision of the State Government. It was entirely for the State Government to lay-down as to what type of teaching-staff was required to implement the scheme. Duration of the scheme, the financial involvement, type of the vocational training and various other aspects must have been taken into consideration by the State Government while providing the mechanism to implement the scheme. When the scheme has been made to operate with the help of the part-time teaching staff it is not for this Court, ordinarily, to modify the scheme and direct the State Government to employ whole time staff to implement the scheme. This Court in *Delhi Development Horticulture Employees Union v. Delhi Administration, Delhi and Ors.*, [1992] 4 SCC 99, speaking through P.B. Sawant, J. observed as under :-

E "Those employed under the scheme, therefore, could not ask for more than what the scheme intended to given them. To get an employment under such scheme and to claim on the basis of the said employment, a right to regularisation, is to frustrate the scheme itself. No court can be a party to such exercise. It is wrong to approach the problems of those employed under such schemes with a view to providing them with full employment and guaranteeing equal pay for equal work. These concepts, in the context of such schemes are both unwarranted and misplaced. They will do more harm than good by depriving the many of the little income that they get to keep them from starvation. They would benefit a few at the cost of the many starving poor for whom the schemes are meant. That would also force the State to wind up the existing schemes and forbid them from introducing the new ones, for want of resources."

H Even otherwise we see no parity on facts between the vocational - teachers under the scheme and other teaching staff in an educational institution. Vocational training is not a part of regular teaching in the

institutions where the appellants are working. It is only as a result of the implementation of the scheme that the educational institutions have been given option to introduce vocational training. The method of teaching, the extent of responsibility and the requirement of academic - intellect in the two sets of teaching is entirely different. Teaching academic subjects like English, History, Mathematics, Geography, etc. is not the same as giving practical training in clock and watch repair, photography, printing and book binding, optician and refractionist, horticulture, sericulture.

We see no force in any of the contentions raised by the learned counsel for the appellants and we reject the same.

According to the State Government the vocational training scheme is inherently temporary in nature because the courses which form part of the scheme are flexible in nature. They are need based by reference to the needs of the region and mass of the courses would cease to be relevant after certain time frame. We so not wish to express any opinion as to whether the need for such a scheme is temporary or perennial. It is entirely for the Central Government or the State Government to take a decision in this respect. The fact, however, remains that the scheme is operating since 1977-78. The State Government may have a fresh-look at the scheme and if it is to be kept as a permanent feature then the same should be appropriately revised. It would be advisable to maintain a list of part-time lecturers on the basis of continuous length of service and periodic regularisation should be made out of the said list.

As noticed above the State Government has very fairly agreed to absorb on regular basis all those part-time lecturers, working in the Government institutions, who have served in that capacity by teaching requisite number of units for more than ten years. We have no doubt that the State Government shall complete the said exercise expeditiously preferably within six months. The State Government shall also issue directions as a part of the scheme to the private institutions to absorb on regular basis all those part-time lecturers who have worked in the said institutions for more than ten years as such.

There are large number of part-time lecturers who are holding regular employments in other educational institutions or with the State Government, public undertaking etc. We make it clear that the said category of part-time lecturers shall not be entitled to regularisation under the vocational training scheme despite their having served as such for more

- A than ten years. They may go back to their regular employments if they do not wish to serve as part-time lecturers under the scheme.

The appeals are dismissed with the above observations. No costs.

A.G.

Appeals dismissed.

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Special leave granted.

- C We have today pronounced judgment in Civil Appeal Nos. of 1994 (Arising out of SLP (c) Nos. 784-87/89) titled *K.S. Mahalingegowda and Ors. v. Secretary to the Government, Department of Vocational Education, Karnataka and Ors.* We have dismissed all the appeals filed by the vocational teachers seeking regularisation. In view of our judgment in *K.S. Mahalingegowda's* case, these State appeals are to be allowed. We allow the State appeals, set aside the impugned judgments of the High Court in these appeals. The respondents-vocational teachers shall, however, be entitled to the benefit of the directions given by us in *K.S. Mahalingegowda's* case. No costs.

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A.G.

Appeals dismissed.