IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE C. PRAVEEN KUMAR

W.A.Nos.381, 382, 411, 426 of 2020; 30, 35 and 46 of 2021

(Taken up through video conferencing)

W.A.No.381 of 2020

Acharya Nagarjuna University (ANU)
Rep., by its Registrar,
Nagarjuna Nagar, Guntur District.

... Appellant

Versus

Gajula Sarat Chandra Babu,
S/o G. Veera Sekhara Rao,
Aged 59 years, R/o D.No.2-14-126,
Mahalakshmi Nagar,
Stambalagaruvu, Guntur,
Guntur District and another.

...Respondents

Counsel for the appellant : Mr.Ponnavolu Sudhakar Reddy, Additional Advocate General

Counsel for respondent No.1 : Mr.Sasanka Bhuvanagiri

Counsel for respondent No.2 : GP for Services III

W.A.No.382 of 2020

Acharya Nagarjuna University (ANU)
Rep., by its Registrar,
Nagarjuna Nagar, Guntur District.

... Appellant

Versus

Prof K VenkataRao
S/o Sanjeevaiah aged 59 years,
R/o Flat No 103 Phani Grand Apartment,
S.V. Colony Main Road, Gujjanagundla,
Guntur-522006

...Respondents

Counsel for the appellant : Mr. Ponnavolu Sudhakar Reddy, Additional Advocate General

Counsel for respondent No.1 : Mr. Venkateswarlu Posani

Counsel for respondent Nos.2 and 3 : GP for Services III

W.A.No.411 of 2020

Acharya Nagarjuna University (ANU)
Rep., by its Registrar,
Nagarjuna Nagar, Guntur District and
another.

... Appellants

Versus

Gajula Sarat Chandra Babu,
S/o G. Veera SekharaRao,
Aged 59 years, R/o D.No.2-14-126,
Mahalakshmi Nagar,
Stambalagaruvu, Guntur,
Guntur District and another.

... Respondents

Counsel for the appellants : Mr.Ponnavolu Sudhakar Reddy, Additional Advocate General

Counsel for respondent No.1 : Mr.Sasanka Bhuvanagiri

Counsel for respondent No.2 : GP for Services III

W.A.No.426 of 2020

Acharya Nagarjuna University (ANU)
Rep., by its Registrar,
Nagarjuna Nagar, Guntur District and
Others

... Appellants

Versus

Prof. K. VenkataRao,
S/o Sanjeevaiah, aged 59 years,
R/o Flat No.103, Phani Grand Apartment,
S.V. Colony, Main Road,
Gujjanagundla, Guntur-522006 and
others.

...Respondents

Counsel for the appellants : Mr. Kasa Jagan Mohan Reddy,Spl. Government Pleader

Counsel for respondent No.1 : Mr.Venkateswarlu Posani

Counsel for respondent No.2 : GP for Services III

Counsel for respondent No.3 : GP for Finance & Planning

W.A.No.30 of 2021

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Department of Higher Education,
Velagapudi, Amaravathi, Guntur District
and another.

... Appellants

Versus

Prof. K. VenkataRao,
S/o Sanjeevaiah, aged 59 years,
R/o Flat No.103, Phani Grand Apartment,
S.V. Colony, Main Road,
Gujjanagundla, Guntur-522006
and another.

... Respondents

Counsel for the appellant : GP for Higher Education

Counsel for respondent No.1 : Mr. Venkateswarlu Posani
for Mr. SubbaRao Posani.

Counsel for respondent No.2 : Mr.Rambabu Koppineedi, standing counsel

W.A.No.35 of 2021

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Department of Higher Education,
Velagapudi, Amaravathi, Guntur District.

... Appellant

Versus

GajulaSarat Chandra Babu,
S/o G. VeeraSekharaRao,
Aged 59 years, R/o D.No.2-14-126,
Mahalakshmi Nagar, Stambalagaruvu,
Guntur, Guntur District and another.

... Respondents

Counsel for the appellant : GP for Higher Education

Counsel for respondent No.1 : Mr. Sasanka Bhuvanagiri

Counsel for respondent No.2 : Mr.Rambabu Koppineedi, standing counsel

W.A.No.46 of 2021

Acharya Nagarjuna University (ANU)
Rep., by its Registrar,
Nagarjuna Nagar, Guntur District and
another

... Appellants

Versus

Prof. K. VenkataRao,
S/o Sanjeevaiah, aged 59 years,
R/o Flat No.103, Phani Grand Apartment,
S.V. Colony, Main Road,
Gujjanagundla, Guntur-522006

...Respondent

Counsel for the appellants : Mr. Kasa Jagan Mohan Reddy, Spl.GP

Counsel for the respondent : Mr. Venkateswarlu Posani

Dates of hearing : 10.02.2021, 11.02.2021 & 15.02.2021

Date of pronouncement : 01.04.2021

COMMON JUDGMENT & ORDER

(Arup Kumar Goswami, CJ)

These appeals are preferred against the common judgment and order dated 14.02.2020 passed in W.P Nos.3082, 4818, 15161, 20948 of 2019 and 1977 of 2020.

2. Writ Petition Nos.4818, 15161 and 20948 of 2019 were filed by K. Venkata Rao and Writ Petition Nos.3082 of 2019 and 1977 of 2020 were filed by Gajula Sarat Chandra Babu and all the writ petitions were allowed setting aside the orders impugned and granting consequential benefits.

3. W.A.Nos.381, 382, 411, 426 and 46 of 2020 are preferred by Acharya Nagarjuna University (for short, 'the University') in respect of

W.P.Nos.3082 of 2019, 4818 of 2019, 1977 of 2020, 20948 of 2019 and 15161 of 2019, respectively.

4. W.A.Nos.30 of 2021 and 35 of 2021 are filed by the State of Andhra Pradesh in respect of W.P.Nos.4818 of 2019 and 3082 of 2019, respectively.

5. Learned counsel for the parties have advanced arguments in W.A.No.382 of 2020 as the learned single Judge had passed the judgment based on W.P.No.4818 of 2019.

6. Before proceeding further, it will be appropriate to take note of basic facts and the nature of relief sought in each of the writ petitions for better appreciation of the issues involved.

7. In W.P.No.3082 of 2019, the writ petitioner- Gajula Sarat Chandra Babu called into question a Memorandum dated 07.02.2019, directing him to retire on 31.05.2019 on attaining the age of 60 years, instead of 62 years, by treating him as non-teaching staff, with a further prayer to allow him to continue in service upto the age of 62 years. The petitioner was, at the relevant point of time, holding the post of the Assistant Professor in Library and Information Science in the University. It is relevant to state that the post of Documentation officer, which the petitioner was holding, was re-designated as Assistant Professor in Library and Information Science.

8. In W.P.No.3082 of 2019, an interim order was passed on 01.05.2019 (in I.A.No.1 of 2019) directing the University to continue the writ petitioner in service with the rider that entitlement of the petitioner for salary would depend on further orders to be passed, and thereafter, by order dated 24.07.2019, he was allowed to continue in service till the disposal of the writ petition. While the petitioner was allowed to continue to attend to his

duties till the third week of December, 2019, he was prevented from attending to his duties on 19.12.2019. When asked for the reason, he was served with a proceeding dated 19.12.2019, whereby he was retired and relieved from the services of the University with immediate effect. Accordingly, the proceedings dated 19.12.2019 were assailed in W.P.No.1977 of 2020.

9. In W.P.No.4818 of 2019, the writ petitioner-K. Venkata Rao called into question the proceedings dated 29.03.2019 directing him to retire on 31.07.2019 on attaining the age of 60 years, instead of 62 years, by treating him as non-teaching staff, with a further prayer to allow him to continue in service upto the age of 62 years. At the relevant point of time, he was holding the post of Professor of Library and Information Science. It is relevant to state that the post of University Librarian, which the petitioner was holding, was re-designated as Professor in Library and Information Science.

10. In W.P.No.4818 of 2019, an interim order was passed on 16.07.2019, suspending the order dated 29.03.2019, and another interim order was passed on 24.07.2019 extending the earlier order and allowing him to continue in service till disposal of the writ petition. By an order dated 13.09.2019, while allowing him to continue in service with payment of salary, the University withheld his administrative, financial and academic functions as Librarian and entrusted those functions to his next senior most officer. Another order dated 19.09.2019 was issued appointing Deputy Librarian as In-charge Librarian of the University and directing the petitioner to handover administrative and financial powers to the Deputy Librarian. Challenging the aforesaid two proceedings dated 13.09.2019 and 19.09.2019, W.P.No.15161 of 2019 came to be filed.

11. W.P.No.20948 of 2019 came to be filed assailing the proceedings dated 19.12.2019, retiring and relieving the petitioner in W.P.No.4818 of 2019, from the services of the University with immediate effect, while the interim order in the said W.P.No.4818 of 2019 was subsisting.

12. It will be now appropriate to take note of the case projected, in a nutshell, in W.P.No.4818 of 2019.

13. While the petitioner in W.P.No.4818 of 2019, namely, K. Venkata Rao, was working as Assistant Librarian, the Government of Andhra Pradesh, through its Principal Secretary, issued G.O.Ms.No.35 dated 16.06.2003, re-designating the posts of University Library Professionals who have been drawing University Grants Commission (UGC) scales, i.e., University Librarian, Deputy Librarian, Assistant Librarian and Documentation Officer, as Professor, Associate Professor and Assistant Professor in Library and Information Science, respectively. Accordingly, the Vice Chancellor of the University issued proceedings dated 27.11.2003, re-designating the writ petitioner as Assistant Professor. Benefit of Career Advancement Scheme (CAS) was extended to him by the Executive Council of the University, vide proceedings dated 28.05.2007. He was selected and appointed as Deputy Librarian on 21.02.2009 and again as University Librarian on 01.09.2009. The Executive Council (Syndicate) of the University, in a meeting held on 22.06.2016, resolved to start regular course in M.L.I.Sc. Two Years (Integrated) from the academic year 2016-17 and consequently, established the Department of Library and Information Science and he was appointed as Head of the Department (HoD) and since then, he had started discharging his duties as Professor and HoD. Subsequently, he was also appointed as Chairman of the Board of Studies of the Department.

14. The Government of Andhra Pradesh, through its Principal Secretary, issued G.O.Ms.No.59 dated 24.12.2014, enhancing the age of superannuation of regular University Teachers in the State from 60 years to 62 years with effect from 02.06.2014.

15. It is pleaded that having regard to the nature of duties assigned to the post of University Librarian/Professor, which the petitioner was performing, he comes under the category of Teacher as defined in Sections 2(22) and 2(23) of the Andhra Pradesh Universities Act, 1991 (for short, 'the Act'). Though, being a Teacher, he was entitled to continue in service till completion of 62 years, Memorandum dated 29.03.2019 was issued retiring him from service with effect from 31.07.2019, on attaining the age of 60 years.

16. The Learned single Judge, during the course of the judgment, noted that a submission was advanced by the learned counsel appearing for the University that counter-affidavit filed on behalf of the University by Professor K. Rosayya was not correct. He relied upon the counter-affidavit filed in W.P.No.20948 of 2019.

17. The learned single Judge, while passing the impugned judgment, observed that the basis of the claim of the writ petitioner to continue in service upto the age of 62 years is based on G.O.Ms.No.59 dated 24.12.2014, by which the age of superannuation of regular University Teachers in the State of Andhra Pradesh was extended to 62 years.

18. The learned single Judge recorded a finding that the petitioner in W.P.No.4818 of 2019 has been given a structured streamlined instruction programme for the students of M.L.I.Sc course and was assigned a particular class. Though the course was under self-financing scheme, learned single Judge held that it is not material that the course was a

self-financing course. It is also observed that the petitioner not only guided the students for the research for the Nagarjuna University but was also considered as an external faculty for adjudicating Ph.D. thesis of other Universities. The learned single Judge also observed that the petitioner in W.P.No.3082 of 2019 was deputed to various parts of the State for conducting practical examinations to B.L.I.Sc. students.

19. The learned single Judge held as follows:

> *"This Court is of the opinion that the duties assigned to the petitioner in this case would definitely entitle him to be called a "teacher" of the University. Sustained activity is allotted to the petitioner in teaching. His role in guiding Doctoral students and the request from other Universities to the petitioners to act as external examiners make it clear that the persons in the Library Science Department are treated as "teachers". The time tables make it clear that they are assigned duties as teachers of Library Science. Therefore, this Court holds that the various members of the faculty in the Department of Library and Information Sciences who are teaching regular classes should be considered as teachers only. Consequently, they are entitled to be retired/superannuated only when they attained age of 62 years; on par with all other teachers. This Court also feels that in view of the decided case law as applicable to this case; this order would not amount to an interference in an internal matter of a University but would be a case of vindication of the petitioners rights."*
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> *xxxxxx*

"Hence, after examining the matter from all the angles, this Court is of the firm opinion that as the petitioners are assigned teaching duties in a structured/pre-determined manner and as they have been consistently teaching the students, they are held to be teachers as per Section 2(22) and 2(23) of the Act. Arguments and the submissions of the petitioners are upheld. Even if they did not actually "teach" the same is immaterial as per the Division Bench order mentioned above. The available material and the regulations governing the petitioners make it clear that the petitioners should be treated as teachers of the University, as a result of which they are entitled to be retired only on attaining the age of 62 years and with all the benefits therefrom."

20. The learned single Judge, thus, on consideration of the arguments advanced by the parties and taking note of the judgments cited, held that the available material and the Regulations governing the petitioners make it clear that the petitioners should be treated as Teachers of the University as a result of which they are entitled to be retired only on attaining the age of 62 years with all benefits.

21. Mr. Ponnavolu Sudhakar Reddy, learned Additional Advocate General, has drawn the attention of this Court to G.O.Ms.No.35 dated 16.06.2003, to contend that the decision to adopt uniformity in designations by re-designating the posts of University Library Professionals, who are drawing UGC scales, was subject to the condition that there is no financial commitment on the part of the Government and that apart, it was also expressly stated therein that though they may be asked to take classes, they are not regular teaching staff of the Department of Library and

Information Science and they belong to non-vacation academic staff, and the import and effect of the G.O.Ms.No.35 was not considered by the learned single Judge. It is submitted that the G.O.Ms.No.35 dated 16.06.2003 was not assailed at any point of time and, therefore, there cannot be any doubt that the writ petitioners are not regular teaching staff of the Department of Library and Information Science.

22. Placing reliance on G.O.Ms.No.59 dated 24.12.2014, it is submitted that by the said G.O., the Government had decided to enhance the age of superannuation of regular University Teachers in the State from 60 years to 62 years with effect from 02.06.2014 and when the petitioners, admittedly, in view of G.O.Ms.No.35 dated 16.06.2003, are not regular teaching staff, they cannot claim that they should retire at the age of 62 years on par with the regular University Teachers. He submits that a proceeding dated 28.10.2003 was issued pursuant to G.O.Ms.No.35 dated 16.06.2003 and Resolution of the Executive Council dated 17.09.2003, wherein it was stated in tune with G.O.Ms.No.35, that the duties of Assistant Librarians are separately identified. He has also drawn the attention of the Court to a proceeding dated 27.11.2003 issued by the Deputy Registrar-Administration, of the University, pursuant to issuance of G.O.Ms.No.35 dated 16.06.2003, wherein also, while re-designating the post of Assistant Librarian as Assistant Professor, it was reiterated that those re-designations are without any financial commitment and without any change of service conditions after re-designations. It is submitted that the said proceedings dated 28.10.2003 and 27.11.2003 were also not challenged before any forum.

23. He has drawn the attention of the Court to the Ordinance of the University, which is effective from 27.10.2018, and placing reliance on

Ordinance No.4 relating to the appointment, powers and duties of University Librarian, contends that duties of the Librarian do not envisage any kind of teaching. He relies on a judgment of a learned single Judge of this Court inW.P.No.21035 of 2002 dated 06.04.2006in the case of ***N. Bhaskara Reddy v. Sri Acharya N.G. Ranga Agricultural University, Hyderabad*** and the judgment of a Division Bench of this Court in the case of ***M.Sankara Reddy v. Potti Sree Ramulu Telugu University***, reported in ***LAWS (APH)-2004-11-36***.

24. Mr.Kasa Jagan Mohan Reddy, learned Special Government Pleader appearing for the University, while broadly adopting the arguments of Mr.Ponnavolu Sudhakar Reddy, refers to Sections 2(22) and 2(23) of the Act, and contends that while all University Teachers are Teachers, all Teachers are not University Teachers and that, to be a Teacher of the University, one has to be appointed by the University to give instruction or guide research in the University and constituent colleges. Viewed from this perspective, the writ petitioners are not Teachers of the University, he submits. Drawing attention of the Court to G.O.Ms.No.5 dated 18.01.2014, he submits that Dr. K. Venkata Rao was nominated as one of the members of the Academic Senate of the University as a Librarian and not as a Professor. He also submits that, however, in the year 2016, by way of G.O.Ms.No.8 dated 22.02.2016, the Government nominated K. Venkata Rao to the Executive Council from the Teachers' quota though he was not a Teacher. He contends that by such mere nomination, he will not become a Teacher if he is not a Teacher.

25. He referred to a Resolution of the Executive Council meeting held on 22.06.2016, by which it was resolved to start/revive the regular M.L.I.Sc. 2 years (Integrated) course in Library Science subject in the University

campus on self-finance basis from the academic year 2016-2017. It is submitted that the same was done on the request of K. Venkata Rao. It is further submitted that since the course is a self-financing course, it cannot be equated as regular course of the University and, therefore, anybody imparting teaching in the said subject, that too, as a Guest Faculty, cannot be construed to be a regular University Teacher, as Ordinance No.4 of the Ordinances makes it abundantly clear that the University Librarian is a non-teaching post. He relies on the judgment of a Division Bench of this Court in W.A.No.831 of 2006 dated 01.12.2014 in the case of ***Acharya N.G. Ranga University, rep. by its Registrar, v. E.D. Livingston***.

26. Mr. Posani Venkateswarlu, learned counsel appearing for the writ petitioners, submits that the learned single Judge, on the basis of the materials on record, came to the conclusion that the writ petitioners were Teachers within the meaning of Section 2(23) of the Act and no interference is called for with the aforesaid judgment. He refers to proceedings dated 12.01.2019 issued by the University to amend the Regulations to re-designate the University Librarian, Deputy Librarian and Assistant Librarian to that of Professor, Associate Professor and Assistant Professor in Library and Information Science, respectively, subject to the conditions as enumerated in G.O.Ms.No.35 dated 16.06.2003. He relies on the judgment of a Division Bench of this Court in W.A.No.576 of 2015 dated 13.07.2016 in the case of ***Abdul Hakeem v. State of Telangana***, ***S.S. Janardhan Rao v. Andhra University***, reported in ***1998 (6) ALD 480, Andhra University, Visakhapatnam v. S.S. Janardhana Rao*** reported in ***2002 SCC Online AP 1205*** as well as in the case of ***P.S.Ramamohana Rao v. A.R. Agricultural University***, reported in ***AIR 1977 SC 3433***. He contends that the decisions relied upon by the

appellants in ***N. Bhaskara Reddy*** (supra), ***M. Sankara Reddy*** (supra) and ***E.D. Livingston*** (supra) are clearly distinguishable on facts.

27. Before proceeding further, it will be appropriate to take note of the judgments referred to by the learned counsel for the parties.

28. In ***N. Bhaskara Reddy*** (supra), the petitioner, who was working as Assistant Librarian in S.V. Agricultural College at Tirupati, sought for a direction that he be continued in service till he attains the age of superannuation of 60 years on par with teachers of Sri Acharya N.G. Ranga Agricultural University and that his terminal benefits be settled on that basis. In the aforesaid case, the Court had an occasion to deal with Section 2(n) of the Andhra Pradesh Agricultural University Act, 1963, which defines 'Teacher'. According to the said definition, a Teacher includes Professor, Reader, Lecturer or other person appointed or recognized by the University for the purpose of imparting instruction or conducting and guiding research of extension programmes, and any person declared by the statutes to be a Teacher. On facts, the Court found that, as an Assistant Librarian, the petitioner had neither imparted instructions nor had conducted and guided research or extension programme and therefore, he does not fall within the definition of Section 2(n) of the Andhra Pradesh Agricultural University Act, 1963.

29. In ***M. Sankara Reddy*** (supra),a single Bench had occasion to deal with the age of superannuation of a Librarian working in Sri Potti Sree Ramulu Telugu University. The learned single Judge held that Rule 3(d) of Statute 22 and Rule 3(c) of Statute 29 of the University clearly classified Librarian as a Teacher.

30. In the case of ***E.D.Livingston*** (supra), the writ appellate Court had set aside the order passed by the learned single Judge in the writ petition

allowing the writ petitioner, namely, E.D. Livingston, who was an Assistant Librarian, to continue up to 60 years upholding the plea that he was a Teacher as defined in the statutes. The Division Bench observed that even if some teaching duties were assigned on certain occasions, the same was done by the Principal of the college and not as a matter of compliance with the general circular or Statutes issued by the University. It was held that classification of an employee of an organization into a particular category would depend upon the relevant rules as well as the nature of duties that are assigned to the incumbent in general.

31. In ***Abdul Hakeem*** (supra), again, Section 2(n) of the Andhra Pradesh Agricultural University Act, 1963, had fallen for consideration before a Division Bench of this Court. Taking note of the changes that had taken place from 2009-2010 academic year and the duties assigned, it was held that they would come within the meaning of teacher as defined by the Hon'ble Supreme Court in the case of ***P.S Ramamohana Rao v. A.P. Agricultural University***, reported in ***(1997) 8 SCC 350***.

32. In the case of ***S.S. Janardhan Rao*** (supra), the writ petitioner, who was a Librarian of Andhra University, sought for a writ of Mandamus declaring the age of superannuation of Librarian as 60 years. Amongst other pleas, it was the contention that the post of Librarian is a teaching post and, therefore, he must be given the benefit of superannuation age of 60 years. The learned Judge took note of Regulation 34 framed by the Andhra University, which enjoined upon the University Librarian to perform certain duties including the one that he shall do such teaching work as may be assigned to him from time to time. It was held that simply because the writ petitioner was not assigned the teaching work for various reasons, it cannot be said that he ceases to be a Teacher, as assigning or not

assigning the teaching work by the University is immaterial. Accordingly, it was held that the post of Librarian in the Andhra University falls within the category of teaching staff. The aforesaid judgment was upheld in ***Andhra University, Visakhapatnam*** (supra).

33. In ***P.S. RamamohanaRao***(supra), the Hon'ble Supreme Court observed as under:

> *"....From the aforesaid affidavit, it is clear that a Physical Director has multifarious duties. He not only arranges game and sports for the students every evening and looks after the procurement of sports material and the maintenance of the grounds but also arranges inter-class and inter-college tournaments and accompanies the students' team when they go for the inter-university tournaments. For that purpose it is one of his important duties to guide them about the rules of the various games and sports. It is well known that different games and sports have different rules and practices and unless the students are guided about the said rules and practices they will not be able to play the games and participate in the sports in a proper manner. Further, in our view, it is inherent in the duties of a Physical Director that he imparts to the students various skills and techniques of these games and sports. There are a large number of indoor and outdoor games in which the students have to be trained. Therefore, he has to teach them several skills and the techniques of these games apart from the rules applicable to these games....*
>
> *.....In our view, the learned Judges did not go into the meaning of the word "teacher" in the main part of the clause nor*

assessed correctly the effect of the material evidence on record. The learned Judges observed that assuming Physical Directors imparted instructions to their students, unless the University recognised them as teachers they could not claim the benefit of Section 2(n) of the Act. Obviously the learned Judges were referring to the last part of Section 2(n) which includes persons other than those enumerated in the inclusive part if so recognised by the University. As we have held that the Physical Directors come within the main part of the definition of "teacher", it is in our opinion not necessary that they should be separately recognised as teachers by an order or statute of the University....

…….We are unable to agree. It may be that the Physical Director gives his guidance or teaching to the students only in the evenings after the regular classes are over. It may also be that the University has not prescribed in writing any theoretical and practical classes for the students so far as physical education is concerned. But as pointed by us earlier, among various duties of the Physical Director, expressly or otherwise, are included the duty to teach the skills of various games as well as their rules and practices. The said duties bring him clearly within the main part of the definition as a `teacher'. We therefore, do not accept the contention raised in the additional counter-affidavit of the University."

34. It will also be apposite to consider the case of ***State of Karnataka v. C.K. Pattamashetty and another***, reported in ***(2004) 6 SCC 685***. In the aforesaid case, while dealing with the claim of an Assistant Librarian

in Bangalore University to treat him as a Lecturer, the Hon'ble Supreme Court held that the person appointed as visiting professor on honorary basis, could not claim the financial benefits of the salaried employee of the University as a Lecturer or other teachers of the University.

35. At this juncture, it will be appropriate to extract relevant portion of G.O.Ms.No.35 dated 16.06.2003:

"HIGHER EDUCATION (UE) DEPARTMENT

G.O.Ms.No.35 *Dated 16-06-2003*
Read the following:

xxxxxx

O R D E R:

xxxxx

2. xxxxx

3. After careful examination of the proposal of the Secretary, A.P. State Council of Higher Education, Government have decided to adopt the uniform of designations by re-designating the posts of the University Library Professionals who are drawing UGC scales i.e. University Librarian, Deputy Librarian, Assistant Librarian and Documentation Officer to that of Professor in Library & Information Science, Associate Professor in Library &Information Science and Assistant Professor in Library & Information Science respectively, subject to the condition that there is no financial commitment on the part of the Government and also with the following conditions:

1. Assistant Librarians working in the Universities possess the same qualification like the Librarians earlier working

in Government Degree Colleges and later designated as Lecturers in Library Science vide G.O.Ms.No.91.

2. The Assistant Librarians have the duties separately identified and as and when necessary they may be asked to teach classes and they are not regular teaching staff of the Department of Library and Information Sciences.

3. The Assistant Librarians are non-vacation academic staff charged with the responsibility of offering academic services to various Departments in the Universities.

4. The Registrars of all Universities in the State are requested to take necessary action in the matter.

5. This order issues with the concurrence of Finance (EBS VII) Department vide their U.O.No.5131/139/EBS VII/03, dt. 05-03-2003."

36. It would also be relevant to extract the relevant portion of proceedings dated 27.11.2003 issued by the Deputy Registrar, Administration of the University:

"REGISTRAR
NU/ESTT/NTS/E.1/Disp Action /2002-04, DATE: 27-11-2003

XXXXX

ORDER:

XXXXX

These redesignations are without any financial commitment and without any change of services conditions after redesignations."

37. It would now be appropriate to extract relevant portion of G.O.Ms.No.59 dated 24.12.2014, which is the foundation of the claim of the writ petitioners.

"HIGHER EDUCATION (UE) DEPARTMENT

G.O.Ms.No.59 *Dated 24-12-2014*
Read the following:

xxxxxx

O R D E R:

xxxxx

2. xxxxx

3. Government after careful examination of the entire matter hereby enhance the age of Superannuation of regular University Teachers in the State from 60 years to 62 years with effect from 02-06-2014.

4. The Registrars of all the Universities are advised to place the matter before the Executive Councils of the respective Universities and take necessary action in the matter accordingly."

38. Section 2(23) of the Act defines Teachers of the University to mean the Teachers appointed by the University to give instructions or guide research in the University and constituent colleges. The materials on record do not demonstrate that the petitioners had been appointed by the University to give instructions or guide research in the University and constituent colleges. It is not the case of the writ petitioners that they were appointed by the University to guide research in the University and

constituent colleges. If an employee of the University guides research in any other University, the same will not make him a Teacher of the University in which he is employed.

39. G.O.Ms.No.35 dated 16.06.2003 while re-designating the post of Assistant Librarians who were drawing UGC scales, made it explicitly clear that Assistant Librarians are not regular teaching staff of the Department of Library and Information Sciences. It is relevant to note that K. Venkata Rao was holding the post of Assistant Librarian when the aforesaid G.O.Ms.No.35 dated 16.06.2003 was issued. It was also indicated therein that as and when necessary, they may be asked to take classes but Assistant Librarians belong to non-vacation academic staff charged with the responsibility of offering academic services to various Departments in the Universities. It is seen from Ordinance No.4 of the University that duties of Librarian do not envisage any kind of teaching.

40. G.O.Ms.No.59 dated 24.12.2014 used the expression "regular University Teachers" and the petitioners were not regularly appointed as Teachers of the University within the meaning of Section 2(23) of the Act. It will be necessary to examine whether because of introduction of M.L.I.Sc. 2 years (Integrated) course in Library Science, petitioners having taken classes as asserted by them, they can be treated at par with regular University Teachers.

41. In the counter-affidavit filed by respondents 1 and 3 in W.P.No.20948 of 2019 (appellants herein), a reference to which is also made in the judgment of the learned single Judge, it is stated that there was no regular teaching Department of Library and Information Science and only self-financed Department of Library and Information Science was started from the academic year 2017-18. It is further stated that the

petitioner had worked as Guest Faculty outside the duties as Librarian instead of regular faculty in the self-financed Department of Library and Information Science during 2017-18, 2018-19 and part of 2019-20 and had drawn additional salary for working as Guest Faculty. It is also stated that the petitioner continued in the University service on the strength of interim orders as per orders of the Vice Chancellor dated 13.09.2019. At paragraph 20 of the counter-affidavit, it is stated as follows:

> *"I respectfully submit that after having examined all these material facts, the respondent University has retired the Petitioner from the University service on 19-12-2019. Further, without the sanction of the Finance Department, Government of A.P., the implementation of the order would result in financial irregularity."*

42. The learned single Judge though noted that the counsel for the University argued on the basis of the counter-affidavit filed in W.P.No.20948 of 2019, did not take into consideration the fact that the petitioner K. Venkata Rao was working as Guest Faculty. When the petitioner K. Venkata Rao was working only as a Guest Faculty, it cannot be said that he has to be treated as a Teacher of the University or a regular University Teacher. It is to be remembered that by the G.O.Ms.No.59 dated 24.12.2014, age of superannuation was enhanced to 62 years only in respect of regular University Teachers.

43. In that view of the matter, we are unable to concur with the reasoning assigned by the learned single Judge for holding that the petitioners should be treated as Teachers of the University, and that they are to be superannuated at the age of 62 years. Accordingly, the impugned judgment is set aside.

44. Before parting with the records, we would like to dwell upon another aspect, which cannot be brushed aside. Despite the interim orders passed by this Court allowing the petitioners to continue in service, in gross violation of such interim orders, they have been retired during the subsistence of the interim orders. The action of the University is condemnable and such action is antithesis to rule of law. The appellants have taken law into their own hands and such action is not expected, least of all from an academic institution. This Court cannot remain a mute spectator to such flagrant violation of orders of the Court. In the facts and circumstances of the case, as the petitioners were directed to be continued in service by the interim orders, we direct the appellants to pay salary and emoluments to the writ petitioners from the date when such pay and emoluments were stopped till the date of this judgment within a period of two months from today.

45. Resultantly, the Writ Appeals are allowed with the aforesaid directions. No order as to costs.

ARUP KUMAR GOSWAMI, CJ **C. PRAVEEN KUMAR, J**

Nn/IBL/MRR