



**Reserved on : 24.02.2025**  
**Pronounced on : 07.03.2025**

IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 07<sup>TH</sup> DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.100271 OF 2022 (S-R)

**BETWEEN:**

M.A.DHAVALESHWAR  
S/O APPANNA DHAVALESHWAR  
AGED ABOUT 67 YEARS  
OCC: RETIRED GRADE I PRINCIPALE OF  
SANGOLLI RAYANNA GRADE-I COLLEGE  
RANI CHENNAMMA UNIVERSITY  
R/O NO.B-102, P-WING  
VISHWARAJ GOLF LINK APARTMENT  
JADHAV NAGAR, BELAGAVI - 590 019.

... PETITIONER

(BY SRI SHIVARAJ C.BELLAKKI, ADVOCATE)

**AND:**

- 1 . THE STATE OF KARNATAKA  
REPTD. BY THE PRINCIPAL SECRETARY  
DEPARTMENT OF EDUCATION  
(HIGHER EDUCATION)  
GOVERNMENT OF KARNATAKA  
M.S.BUILDING, BENGALURU - 560 001.
- 2 . THE VICE CHANCELLOR

RANI CHENNAMMA UNIVERSITY  
VIDYA SANGAMA  
NATIONAL HIGHWAY-4  
BHUUTARAMANAHALLI  
BELAGAVI – 591 156.

- 3 . THE COMMISSIONER FOR  
COLLEGIATE EDUCATION  
SESHADRI ROAD, BENGALURU – 560 001.
- 4 . THE ACCOUNTANT GENERAL OF  
KARNATAKA (A AND E)  
PARK HOUSE, BENGALURU – 560 001.
- 5 . THE PRINCIPAL SECRETARY  
FINANCE DEPARTMENT  
GOVERNMENT OF KARNATAKA  
M.S.BUILDING  
BENGALURU – 560 001.

... RESPONDENTS

(BY SMT. KIRTI LATA R. PATIL, HCGP FOR R1, R3, R4 AND R5;  
SRI SANGRAM S. KULKARNI, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO GRANT REGULAR PENSION TO THE PETITIONER AND CALCULATE HIS PENSIONARY BENEFITS AS PER HIS LAST DRAWN BASIC LAST DRAWN SALARY AT THE TIME OF HIS RETIREMENT AND CONSEQUENTLY DIRECT THE RESPONDENTS TO RELEASE THE ARREARS OF PENSION AMOUNT OF RS.12,72,097/- WITH INTEREST TILL ITS REALIZATION.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.02.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**CAV ORDER**

The petitioner is before this Court seeking a direction by issuance of a writ in the nature of *mandamus* directing the respondents to grant regular pension to the petitioner and grant all terminal benefits with interest at 18% per annum.

2. Heard Sri Shivaraj C. Bellakki, learned counsel appearing for the petitioner, Smt. Kirtilata R. Patil, learned High Court Government Pleader appearing for respondents 1, 3, 4 & 5 and Sri Sangram S. Kulkarni, learned counsel appearing for respondent No.2.

3. Facts, in brief, germane are as follows:-

On 26-07-1982, the petitioner was appointed as a Professor in Sangolli Rayanna College ('the College' for short), an aided institution receiving grants from the hands of the State. Thirty years thereafter, the College was declared to be a constituent college of the newly formed University viz., Rani Chennamma

University, Belagavi ('the University' for short). Therefore, the petitioner becomes an employee of the University college. On 31-08-2015, the petitioner retires on attaining the age of superannuation. No terminal benefits are paid. After plethora of correspondences between the University and the Government, a direction was issued by the Government, that the University has to pay the terminal benefits out of the funds of the University. The University does not pay. The University again communicates to the Government that pension cannot be released as it would lead to complications and objections at the time of audit. The petitioner again represents. In spite thereof, no pension is paid. He approaches this Court in Writ Petition No.145808 of 2020. It comes to disposed with a direction to release terminal benefits. It was not released. The petitioner invokes the contempt jurisdiction. A memo of compliance was filed in the contempt petition, based upon which, reserving liberty to the petitioner, the contempt comes to be closed. In exercise of the said liberty, the petitioner is before this Court in the subject petition seeking release of terminal benefits including interest.

4. The learned counsel appearing for the petitioner would contend that for six long years, the petitioner was without a rupee of pension all for the reason that 'who has to pay pension'. Merely because for the last three years the petitioner becomes a **Professor** in the University, the pension of the petitioner for 33 long years of service is denied. Gratuity is not even paid. Only for the sake of compliance in the contempt proceedings certain make-believe payments are made by the respondents. Substantial part of it, is yet to be paid.

5. The learned High Court Government Pleader on the other side would vehemently refute the submissions by contending that the petitioner cannot be paid pension for all the years of service. He is entitled to pro-rata pension as his services were split with an aided Institution and the University. It is the University which has to pay the pension. She would further contend that all the payments are made and there is nothing remain to be paid.

6. The learned counsel representing the University would submit that the University has forwarded all the documents

necessary for payment of pension and nothing remains with the University.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The service of the petitioner begins in the year 1982, when he was appointed as a Professor in the College, which is said to be a Government institution as it was a Government College. After about 31 years of service of the petitioner, the College was declared to be a constituent college coming under the University. The petitioner by then, as observed above, was left with 2 years and 8 months of service. His 2 years and 8 months of service was in the constituent College of the University. He retires on attaining superannuation on 31.08.2015. For close to 5 years, not a rupee of pension is paid, all for the reason that the file of the petitioner was being moved from table to table for a decision as to who has to pay the pension. Left with no choice, the petitioner knocked at the doors of this Court. A coordinate Bench of this Court in terms of its order dated 10<sup>th</sup> August, 2020 disposed of the petition directing

release of terminal benefits to the petitioner, within a period of four weeks. The order reads as follows:

**“9. This is a sad case of an employer denying the employee’s retirement benefits after having received the benefit of the service of an employee for last more than 33 years. This become sader on account of the government being the employer and government having all resources to call for the records and pass necessary orders. It is rather shocking that instead of doing so, they have resorted to a blame game between respondent Nos.2, 3 and 5 to contend that in the absence of document being sent by respondent Nos.2 and 3, respondent No.5 is unable to take any action. It is not in dispute that petitioner has served the Government and/or the University for a period of more than 33 years. The details of service, period of service, the organization served are all available with respondent No.5. Respondent No.5 is the custodian of all the financial records of the State of Karnataka. Similar records are also available with respondent No.4 – the Accountant General of Karnataka being in charge of all financial records of the State of Karnataka. The petitioner having retired from service on 31.08.2015 has been virtually left high and dry for last five years without retirement benefits, on the ground the respondent Nos.4 and 5 are not in a possession of all records pertaining to the services of the petitioner.**

**10. If the records are not already with respondent Nos.4 and 5, could have called for the records from the concerned authority, and not deny an employee of the State the benefit of retirement on these grounds.**

**11. In the above circumstance, I am of the considered view that the writ petition is required to be allowed and is so allowed directing respondent Nos.2 and 3 to forward any document/s that they may have relating to the processing of the retirement benefits of the petitioner to respondent Nos. 4 within a period of four weeks from today, within a period of four weeks**

**thereafter respondent No.4 would consider and make recommendation to respondent No.5 and within a period of three weeks thereafter respondent No.5 is directed to release the retirement benefits to the petitioner.**

12. The present order being passed in the presence of the learned HCGP, he is requested to inform the concerned about the present order and authorities concerned are required to be act on such information without waiting for certified copy of this order.

13. The registry is directed furnish free certified copy of this order to the learned HCGP. Learned counsel for the petitioner is also free to furnish a certified copy of the order to the respondents.”

(Emphasis supplied)

Again, communications galore between the Departments of the Government. Pension is not paid. The petitioner was constrained to invoke the contempt jurisdiction of this Court. During the contempt proceedings, pension payment order is released in favour of the petitioner granting pension of ₹15,65,676/- for 34 years that the petitioner has rendered. Other incidental terminal benefits were never paid in full. The Court dealing with contempt petition recording the order of compliance disposed of the contempt by the following order:

“The grievance of the complainant, who retired from service as a Principal of the College after attaining the age of

retirement in August 2015, for non-sanctioning of pension and withholding of terminal benefits.

2. The learned Single Judge by order dated 10.08.2020 in W.P. No.145808/2020 had granted redressal to the petitioner by directing the respondents, Vice Chancellor of Rani Chennamma University and the Commissioner of Collegiate Education, Bengaluru for processing the claim for retirement benefits within four weeks; weeks & months have rolled since then and years have rolled since retirement not even a leaf was turned.

**3. the writ petitioner who is the complainant here has been now issued the Pension Payment Order dated 30.06.2021, whereby a sum of Rs.15,65,676/- only has been sanctioned as terminal benefits; in the memo which is accompanied by the said Pension Payment Order, nothing is stated as to brooking of enormous delay, is true; however, there is substantial compliance of the writ issued by the learned Single Judge as to warrant dropping of these proceedings with liberty to the complainant to work out his remainder of the grievances as to terminal benefits and such other benefits including non-payment of E.L. benefits, which arguably the complainant is entitled to in our view, in accordance with law.**

4. The grievance as to nature of the Pension Payment Order and the complainant's entitlement to penal interest & for delayed payment are to be worked out in a separate writ petition; all contentions in this regard are kept open; it hardly needs to be clarified that these aspects are not res judicated either by the learned Single Judge's order or by this order whose violation is complained of."

(Emphasis supplied)

Alleging that the petitioner has been grossly short paid the pension, the petitioner is before this Court. The payments that are not granted to the petitioner on appropriate calculation of pensionary

benefits and arrears is at ₹12,72,097/-; Death cum retirement benefit at ₹11,08,107/- and the amount of encashment of privilege leave amount is at ₹6,71,580/-. The petitioner has produced memo of calculation as to how it is arrived at. It is un-understandable as to why the petitioner, despite working for 34 years, has not been paid complete pension as also leave encashment and gratuity amounts. The State wants to play with the life of the petitioner. The petitioner is now 70 years old having retired 10 years ago and has been fighting for grant of his terminal benefits for close to 6 years upto the date on which this Court would pass orders and now again, for grant of appropriate terminal benefits in full. The prayer is clear that he has to get close to ₹30/- lakhs as terminal benefits.

9. The objections are absolutely vague contending that the petitioner renders his services to the University and therefore, the University has to settle terminal benefits. In these indecisive communications between the quarters of the Government and the University, who suffers is not the person who is wanting to obfuscate the issue, but the poor teacher is made running from pillar to post to get his terminal benefits. In the teeth of contempt,

a paltry sum is released. There are huge arrears to be paid to the petitioner. The petitioner has prayed for release of these arrears.

10. What is projected by the University for not paying pension is, that there is likelihood of audit objection. This by no stretch of imagination be a reason to dodge a teacher for ten years. Therefore, it becomes a case where a *mandamus* is to be issued by granting the prayer of the petitioner and directing that the pension of the petitioner be paid and report the same to this Court, failing which, the petitioner will have to explore another set of litigation.

11. For the aforesaid reasons, the following:

### **ORDER**

- (i) Writ Petition is allowed.
- (ii) *Mandamus* issues to the respondents – State and the University to release to the petitioner complete Death-cum-retirement benefit and encashment of privilege leave including arrears of pension as claimed, within four weeks from this day, all with an interest at 6 per cent, from the date of filing of the present petition *i.e.*, 11-01-2022 till the date of payment.

- (iii) In the event, payments as ordered at (ii) are not paid, the petitioner becomes entitled to interest at 9% p.a., from the date of his retirement *i.e.*, 31-08-2015 till the date of payment. In addition to that, he shall be paid ₹1,000/- for every day's delay, till terminal benefits reach the doors of the petitioner after the expiry of four weeks.
- (iv) Compliance of this order shall be reported to this Court in due course.

**Sd/-**

**JUSTICE M.NAGAPRASANNA**

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CT:SS