
(1980) 01 KAR CK 0016
In the Karnataka High Court
Case No : WP 1674/77

A. Govinda Shetty

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 18-01-1980

Acts Referred:

Karnataka Civil Services Rules, 1958 — Rule 41(1)(ii)

Citation : (1980) 2 KarLJ 32

Hon'ble Judges : Chandrakantharaj Urs, J

Judgement

1. The petitioner was an Assistant Master in Government Junior College at Bangarpet on the date of filing of the petition. He has since been transferred during the pendency of the petition to Government Junior College, Chikkaballapur. The time scale of that post would be really as follows: "Rs. 175-10-275-15-350-EB-20-450".

2. This was in accordance with the Revision of Pay scales effected by the 1st Respondent-State of Karnataka in 1961. However, in the Pay Scale Rules of 1970 of the 1st respondent-State of Karnataka, a provision was made in favour of persons who had put in more than 20 years of service in the post held by the petitioner and others like him by offering what has been termed as "Selection Grade". The 2nd respondent-Director of Public Instruction issued orders fixing the new Pay Scale. The relevant portion of the order at paragraph 3 of Ext-A is as follows:

"3. The pay of the teachers to whom the Selection grades have been awarded should be fixed from the date shown against each in the scale of Rs. 250-500 at the stage of the time scale which is equal to his substantive pay in respect of lower post or if there is no such stage, the stage next below that pay + personal pay equal to the difference and in either case he will continue to draw that pay till such time as he would have received an increment in the time scale of lower posts or the period after which an increment is earned in the time scale of the new post, whichever is less. If the teacher is drawing less than the minimum pay

of the selection grade post then he will draw the minimum of the selection grade from the date of award. The fixation of pay has to be done under Rule 41(a)(ii) on the basis of the pay drawn by them in the 1961 and 1970 revised Scales of pay as the case may be. As the award of selection grade does not involve assumption of any additional duties or higher responsibilities the awarded are not eligible for the next stage pay as per Rules 41(a)(i) and 44 of the K.C.S.Rs. while fixing their pay in the Selection Grade of Rs. 250-500. A copy of the memo approving fixation of pay of the awarders" in the selection grade by the concerned Deputy Directors in the light of the above instructions should be sent to this office in the following proforma vide statement enclosed."

2. Pursuant to that order of the 2nd respondent-Director of Public Instruction, the petitioner's Pay Scale came to be fixed as on 3-7-1970 in Selection Grade, the date on which he was awarded that Grade as follows:

"Rs. 265 + 10 P.P. (Personal Pay) absorbable in the next increment + Rs. 15/- P.M. (Personal Pay.)"

3. Thus, he was awarded on that date the total salary amounting to Rs. 280/-. On 3-7-1971 he has been given, as is apparent from Ex-B, to the petition, Rs. 280 + 5 P.P. totalling Rs. 285. In the next increment he has had the advantage of the 1970 pay Scale, increment of Rs. 15 and given Rs. 295 of 5 personal Pay totalling Rs. 300.

4. It is relevant to state at this stage that when the 1970 Pay Scales of the 1st respondent State of Karnataka was brought into effect, the persons who were in the employment of the State were given the option to opt for the new Pay Scales or to continue in the old pay scales. Admittedly, the petitioner opted for the new Scales of Pay.

5. This writ petition has been presented by the petitioner after having exercised the option and aggrieved by the fixation of pay scale as per Ext-B to the petition.

6. The petitioner has pointed out by detailed calculation for the period from 1-1-1970 to 1-1-1974 his total emoluments at Rs. 10,600 according to 1961 pay scales. Similarly, he has worked out the total emoluments he would receive in the corresponding period under the 1970 Pay Scales which adds up to Rs. 17,850. In other words, by opting for the new pay scales he has suffered a net loss of Rs. 750 over the period of 5 years. Therefore, feeling aggrieved by the fixation of pay scales as per Ext-B by the 2nd respondent, the petitioner has approached this Court under Art. 226 of the Constitution of India for redress contending that the pay scales as fixed as per Ext-B amounts to reduction of his salary and therefore is violative of his conditions of service contrary to the guarantees contained in the Constitution.

7. No other argument has been advanced by the learned counsel for the petitioner than to point out the arithmetical deficiency in opting for the new pay scale.

8. The petitioner had the right to remain in the pay scale that he obtained prior to the 1970 pay scales. But having once exercised the option in favour of the new pay scales of 1970, he cannot now come forward and say that such opting has worked out to his monetary disadvantage over a period of years. He should have done this exercise before opting for the 1970 Pay Scales. Therefore, as is apparent from the order at Ext-B, the pay scales have been fixed in the Selection Grade applicable to the petitioner under Rule 41 (a) (ii) of the Karnataka Civil Services Rules. The learned Counsel for the petitioner has not been able to demonstrate that the fixation of pay scale in Ex-B, is contrary to the aforementioned clause (ii) of sub-rule (a) of Rule 41 of the Rules. In this view of the matter, it is not open to the petitioner to ask or seek a mandamus for fixation of pay scale other than that is admissible to him under the 1970 pay scales to which he opted.

9. The learned Counsel for the petitioner has drawn the attention of the Court to the further direction of the 2nd respondent to the Deputy Director of Public Instruction, Kolar, (respondent-3) to carry out certain deductions. Admittedly, no deductions have been so far carried out. If such deductions are carried out, contrary to the Rules and the 1970 pay scales the petitioner is at liberty to approach this Court for adequate redress. Therefore, it is unnecessary to say anything in that behalf in this petition.

10. The learned Counsel for the petitioner has further drawn the attention of the Court that there has been further revision of pay scales under the Karnataka Civil Services (Revised) Pay Rules, 1976 in which the post held by him has been re-designated and awarded Rs. 600-1240. It is submitted from the Bar that on account of the writ petition pending in this Court, the benefit of the 1976 pay revision has not been extended to the petitioner. Therefore, it is necessary to make the observation that the respondents shall expeditiously award the benefits of the 1976 pay scales now that the writ petition has been disposed of.

11. With the above observation, this writ petition is dismissed. There will be no order as to costs.