

(2000) 09 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 41455 of 1993

A.T. Chandrashekar

APPELLANT

Vs

Karnataka Power Corporation Limited And Another

RESPONDENT

Date of Decision : 13-09-2000

Acts Referred:

Citation : (2000) ILR (Kar) 4316 : (2000) 6 KarLJ 632 : (2000) 4 KCCR 2582

Hon'ble Judges : A.V. Srinivasa Reddy, J

Bench : Single Bench

Advocate : M/s. R.U. Goulay, for the Appellant; Sri Murthy, for the Respondent

Judgement

1. In this writ petition the petitioner prays for a direction to the respondents to consider the case of the petitioner for promotion to the post of Assistant Accounts Officer.

2. The facts of the case, briefly stated, are as follows:

The respondent 1 had framed a scheme in the year 1982 for the purpose of holding departmental examination for promotion to the post of Accountant. This scheme was revised on 17-1-1990 bringing about certain changes in the earlier scheme of the year 1982. The petitioner being fully qualified and eligible to appear in the examination conducted on 29th and 30th August, for purpose of selecting the candidates for promotion to the cadre of Accountant. In the said examination the petitioner was declared to have secured exemption in three papers and the results of the examination were announced as per Annexure-F. Later on, the Managing Director took upon himself the task of reviewing the result declared as per Annexure-F and the revised result was published as per Annexure-G. In the revised result published, the petitioner was shown to have secured exemption only in two papers thereby implying that he had failed in one paper. It is this action of the Managing Director, in revising the result earlier announced, that is now challenged in this writ petition.

3. I have heard the learned Counsel on both sides.

4. The revised result published as per Annexure-G is mainly challenged on the ground that there was provision in the rules for revaluation and that there is also no prescription of minimum marks to be obtained in a subject to pass. It is submitted by learned Counsel for the petitioner that the result announced as per Annexure-F could not have been meddled with by the Managing Director and the petitioner should have been declared to have gained exemption in all the three subjects, thereby becoming eligible for promotion. It is the contention of the petitioner that as the petitioner had scored more than 184 marks he ought to have been promoted as has been done in the case of others. It is also contended by petitioner's learned Counsel that the alleged reason for reviewing the papers being that certain irregularities had been committed by the controller of examination the respondents should have issued notices to all affected persons before proceeding to revalue the papers. The subsequent revaluation is purely based on the assumption that there has been a malpractice committed and, therefore, bad in law.

5. An employer enjoys unbridled power to set a bench-mark of excellence or efficiency, the attainment of which by an employee can be made a condition precedent for getting promoted to a higher post. An employer is also empowered to evolve its own exam, methodology or test in order to examine the relative merits of its employees to select the ones who fit the bill. The only limiting factor for this unbridled power enjoyed by an employer is that the test or methodology employed must be rational and relevant to the requirements of the post to which the promotions are to be made. This power also extends to recalling or reversing or reassessing the result of an examination or test, if the employer had reason to believe that the ultimate result was tainted by certain intervening factors such as foul play, malpractice, nepotism etc. There can be no disputing the fact that every employer enjoys this power for it is the sole concern of the employer to make sure that the man whom it selects to do a certain job would be in a position to deliver the goods. It is not disputed that the reassessment has been done not only in the case of the petitioner but in respect of all the examinees. What matters in such cases is the subjective satisfaction of the employer and there is absolutely no need for the employer to either notify the examinees or take them into confidence before resorting to reassessment or revaluation of their performance. Such a procedure is uncalled for in service jurisprudence. Promotion being always subject to certain conditions, it is the prerogative of the employer to decide on issues such as whether a result has to be approved or disapproved. From the materials available on record it is clear that the subsequent reviewing of the results was not done in arbitrary exercise of this unbridled power and the reason for taking resort to reviewing the result earlier announced is also provided by the respondents. That being the case there is no ground to interfere with the said action of the respondents.

6. The reviewing of the result was also attacked by the learned Counsel for the petitioner on the ground that the rules do not provide for the same. This contention is also not well-founded. Where there is power to hold an exam and

announce the results, the power to recall the result of the exam is always to be implied. It is settled law that an authority which has the power to do a principal act enjoys the power to do every corollary act that may be essential for the performance of the principal act. It is not essential that every step involved in the performance of an administrative function has to necessarily find a mention in the rules and regulations which would serve no purpose other than enlarging the sheer magnitude of the rules or regulations without serving any tangible purpose. Hence, this contention of the learned Counsel for the petitioner is also without any merit and is liable to be rejected.

7. In the result, for the reasons stated above, there is no merit in the writ petition and it is accordingly dismissed.