

(2015) 02 KAR CK 0110

In the Karnataka High Court

Case No : Writ Petition No. 101452 of 2015 (S-RES)

Basavantappa

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 16-02-2015

Acts Referred:

Citation : (2015) 02 KAR CK 0110

Hon'ble Judges : Aravind Kumar, J.

Bench : Single Bench

Advocate : Jagadish Patil, Advocate, for the Appellant; Ravi V. Hosamani, AGA, for the Respondent

Final Decision : Disposed Off

Judgement

Aravind Kumar, J.—By consent, the matter is taken up for final hearing.

2. Heard the arguments of learned counsel appearing for the parties.

3. Petitioner has called in question the revised provisional list published by 5th respondent on 10.12.2014 Annexure-F contending inter alia that petitioner had worked as a Social Science Teacher during 2005 to 2011 at Morarji Desai Residential School run by the Social Welfare Department and to evidence this fact, certificate issued by the concerned Principal of the Schools is produced at Annexure-A. It is contended that during 2011 i.e., on 27.04.2011, a notification came to be issued by 5th respondent calling for applications from eligible candidates for filling up of regular posts in the said schools which notification also indicated of providing or extending the benefit of service weightage for completed years of service. It is further contended pursuant to the same, petitioner applied for the post along with all relevant material and without extending the said benefit of weightage for each completed years of service, a final selection list was published on 29.05.2012 and some of the teachers being aggrieved as like the petitioner had filed writ petitions before this Court in W.P. Nos. 20204-20364/2011 and connected matters Vide Annexure-C and said writ

petitions came to be allowed whereunder the following directions came to be issued:

"i) xxxxxx

ii) xxxxxx

iii) xxxxx

iv) It is declared that all the Principals and teachers including the petitioners herein appointed on or after 2004-2005 are entitled for the benefit of service weightage as specified in Recruitment Regulations, 2011.

v) The respondents to complete the selection process pursuant to the recruitment notification dated 27.04.2011 by granting the benefit of service weightage to the petitioners and all other similarly situated Principals and teachers.

vi) Since respondents have already processed the applications and issued final selection list and additional selection list, they have to redo the process of selection by extending the benefit of service weightage to the petitioners and similarly situated candidates.

vii) Till the completion of selection process as stated above the present placement of petitioners and other who are continuing in service shall not be disturbed.

viii) xxx xxx

ix) xxx xxx"

4. It is also stated that said order came to be affirmed in W.A. No. 5127/2012 and other connected matters by order dated 28.02.2013 vide Annexures-D and pursuant to said order passed by the Division Bench, respondents had assured petitioners and similarly placed persons that in subsequent appointments, applicants will be given weightage/grace marks of 5% for every completed years of service.

5. It is contended that thereafter on 07.07.2014, a provisional list came to be published by 5th respondent which did not contain the name of the petitioner and as indicated in the said provisional list itself aggrieved persons being entitled to file objections to the same, petitioner submitted his objections requesting thereunder to extend the service weightage as ordered by this Court. It is contended that though petitioner had filed objections to the said provisional list, according to Mr. Jagadish Patil, same was not considered by 5th respondent and thereafter the revised provisional list came to be published on 10.12.2014 whereunder name of the petitioner did not find a place and according to the petitioner, 5th respondent had not extended service weightage to the petitioner and as such, his name is not included in the revised provisional list. On these grounds, petitioner has sought for quashing of the said provisional list, for

mandamus and for such other relief to which he may be extended to.

6. On above said grounds and also on the ground that names of the candidates which had been reflected in the first provisional list has been left out in the revised provisional list, a writ petition W.P. No. 113076/2014 and connected matters came to be filed. This Court by order dated 21.01.2015 disposed of those writ petitions by placing submissions made by Shri Sunil S. Desai, learned counsel appearing for respondent No. 5. Submission made by Shri Sunil S. Desai in the connected writ petition reads as under:

"4. Sri Sunil Desai, learned counsel appearing for R5 in all these petitions would fairly submit that some of the petitioners namely petitioners being aggrieved by the provisional list dated 10.12.2014 Annexure-F have already submitted their representations requesting to redo the list and also to include their name/s in compliance with the directions already issued by this Court on 13.07.2012 in W.P. No. 20204-20364/2011 and connected matters and said representation is under active consideration. He would also hasten to add that claim of all the petitioners who are before this Court and all other teachers who are similarly placed and their respective claims for including their names in the revised list would also be considered in the light of directions issued by this Court and submits that if they are found eligible, they would be included in the final list, as otherwise, they would be intimated by issuing an endorsement indicating the reasons or grounds on which their application is being rejected or their names are not being included in the final list. His submission made in this regard is placed on record."

7. In fact, in the above said writ petition the standing counsel for respondent No. 5 had made submission that not only the petitioner who is before the Court, but all similarly placed persons who are claiming service weightage would be considered. Hence, by placing his submission on record W.P. No. 113076/2014 and connected matters came to be disposed of as under:

"6. At the cost of repetition, by placing the submission made by Sri Sunil Desai, which is to the effect that claim of the petitioners would be considered and if they fulfill the criteria of the directions issued by this Court, they would accordingly consider the claim of all the petitioners and similarly placed persons, these writ petitions stand disposed of by recording said submission."

(emphasis supplied)

8. Marked difference which can be noticed in the present writ petition is that name of the petitioner herein did not find a place in the first provisional list unlike names of the petitioners in Writ Petition No. 113076/2014 and connected matters finding a place. However, claims of the present writ petitioner is similar and identical to the claim made by the petitioners in W.P. No. 113076/2014 and connected matters.

9. In that view of the matter, this Court is of the considered view that, if a direction is issued to 5th respondent to consider the objections of the petitioner

said to have been filed and pass necessary orders, therein, it would meet the ends of justice.

10. It is made clear that in the event of such objection said to have been filed by the petitioner is not being available with 5th respondent, petitioners would be at liberty to furnish a copy of said representation along with fresh representations and shall also furnish their service particulars, to enable 5th respondent to consider the same and pass orders thereon, since under similar circumstances, this Court has already issued direction to the 5th respondent to consider the claim of the candidates who are similarly placed as that of the petitioner and to pass orders thereon.

11. It is needless to state that, if the petitioner fulfills the eligibility criteria, as per the directions issued by this Court in W.P. No. 20204/2011 and connected matters disposed of on 13.07.2012, 5th respondent shall extend the same to the petitioner or in the alternate petitioner may be informed by issuance of an endorsement indicating thereunder the reason for rejection of the claim of petitioners by a speaking order so as to enable the petitioner to pursue his grievance in accordance with law.

Accordingly, writ petition stands disposed of.

Shri Ravi V. Hosamani, learned AGA and Sri Sunil S. Desai, are permitted to file memo of appearance and vakalathnama within a period of four weeks.