

(2013) 12 KAR CK 0347

In the Karnataka High Court

Case No : Writ Petition No. 12933 of 2012 (S-CAT)

Bharat Sanchar Nigam Limited, The Chief General Manager
Telecom, Karnataka Telecom Circle and The Assistant General
Manager (HR and A)

APPELLANT

Vs

B. Ratnakara Hegde

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0347

Hon'ble Judges : Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : Vishnu Bhat, for the Appellant; A.R. Holla, for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantanagoudar, J.—Respondent herein was appointed as Extra Departmental Telegraph Messenger on 18.7.1984 in the office of the Indian Postal and Telegraph Department, Post Master, Puttur, Dakshina Kannada District. The appointment order dated 18.7.1984 makes it clear that the respondent's appointment was provisional and he can be terminated without assigning any reason; the respondent may be governed by the ED (Conduct & Services) Rules, 1964 as amended from time to time and all other Rules applicable to ED Agents, etc. Thus, it is clear that the respondent was working as Extra Departmental Chowkidar (Delivery Agent:) since 1984. Thereafter he was deputed to work in the Department of Telecom in the year 1992, in the office of the Telegraph Department at Puttur, once again on temporary basis. In the year 2002, the respondent started making representations seeking regularization of his services as Telegraph Messenger. However, the said request of the respondent was not acceded to. Thus, the respondent approached the Central Administrative Tribunal in O.A. No. 224/2009 which came to be allowed by the order dated 17.2.2010 directing the petitioners herein to regularize the services of the respondent. The said order was questioned by the petitioners in WP. No. 19262/2010 before this

Court which came to be disposed of on 20.1.2011 with a direction to the petitioners to reconsider the claim of the respondent for regularization/absorption with reference to the decision rendered by the Apex Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, . While disposing of the said writ petition, the following observations were made by this Court:-

We also notice that the appointment letter issued by the Postal Department would indicate that the appointment of respondent is in the vacant post was accepted by the Company. More so, the time was insufficient for calling for appointment and filling up of such posts. This factor that the initial appointment to the postal department or Telecom Department is against the sanctioned post.

Once again the Tribunal in O.A. No. 200/2011 reconsidered the matter and has passed the impugned order on 1.2.2012 directing the petitioners to regularize the services of the respondent in the cadre a held by him.

2. Sri Vishnu Bhat, learned counsel for the petitioners submits that the respondent was not appointed as against the sanctioned post and therefore, his services cannot be regularized.

Such submission cannot be accepted in view of the aforementioned observations made by this Court WP. No. 19262/2010. The aforequoted observations of this Court make it amply clear that the appointment letter issued by the Postal Department would indicate that the respondent's appointment is in vacant post and the same was accepted by the petitioners that too when the time was insufficient for inviting applications for filling up of such posts. Thus, this Court concluded that the initial appointment of the respondent in the Postal and Telecom Department is against the sanctioned post. Therefore, it is not open for the BSNL to contend that the appointment of the respondent was not against the sanctioned post.

From the above, it is clear that the respondent-has been working in the Postal Department and thereafter Telecom Department from 1984 till this day continuously. Virtually, he is working in Group-D post. There is no reason as to why he should not be regularized as per the dictum laid down by the Apex Court in the case of State of Karnataka and Others Vs. M.L. Kesari and Others, and in Umadevi's Case (cited supra).

It is further relevant to note that the Department of Telecom introduced a Scheme providing for conferment of temporary status and regularization of casual mazdoors, namely, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Telecommunications, 1989. Some of the similarly employees as of that the respondent approached the Tribunal seeking regularization of their services. The Tribunal directed the petitioners to regularize the services of such employees and consequently such similarly situated employees were regularized. It is further clear from the document at Annexure-A3 dated 15.6.2001 that 20 persons who were working as casual mazdoors to

the temporary posts of regular mazdoors on regular basis on the pay scale of Rs. 2550-5200 plus other allowances. Therefore, it is incumbent on the part of the petitioners to consider the case of the respondent on par with such employees who were stated to be juniors to Respondent. Taking into consideration of the aforementioned aspects, the Tribunal had rightly concluded that services of the respondent are to be regularized.

Since the order of the Tribunal is just and proper, no interference is called for. Hence, writ petition fails and accordingly the same stands