
(2012) 04 KAR CK 0025

In the Karnataka High Court

Case No : Writ Petition No. 28321 of 2011 (S-KAT)

C. Shivalingaiah

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 20-04-2012

Acts Referred:

Karnataka Weights and Measures Service (Recruitment) Rules, 1978 — Rule 32

Citation : (2012) 3 KarLJ 588

Hon'ble Judges : K. Sreedhar Rao, J;B.S. Indrakala, J

Bench : Division Bench

Advocate : C. Shivalingaiah, Party in Person, for the Appellant; Sriyuths H.T. Narendraprasad, High Court Government Pleader and S.V. Narasimhan, for the Respondent

Final Decision : Allowed

Judgement

B.S. Indrakala, J.—This writ petition is filed by the petitioner challenging the order vide Annexure-H, dated 23-5-2011 passed in Application No. 1457 of 2007 on the file of Karnataka Administrative Tribunal, Bangalore. It is contended by the petitioner that, he joined the services of respondent 2-Controller of Legal Metrology as a Manual Assistant in the department of Weights and Measures, on 28-9-1968. It is further contended that appointment to the cadre of Inspector of Weights and Measures is both by direct recruitment and also by promotion in the ratio of 90% and 10% respectively. It is further contended that the petitioner who was eligible for the promotion to the said post as per Karnataka Weights and Measures Service (Recruitment) Rules, 1978, vide office letter dated 3-1-1985, was placed in independent charge of the post of Inspector of Weights and Measures with effect from 5-1-1985 and he discharged his duties till he attained the age of superannuation; meanwhile, his juniors were promoted on officiating basis. In the circumstances, petitioner herein and another filed Application Nos. 319 and 320 of 1997 on the file of Karnataka Administrative Tribunal. The said applications were allowed by the Tribunal vide order dated 10-3-1998 directing

the authorities to consider the case of the applicants for the purpose of promotion. As the claim of the petitioner herein was rejected, he preferred Application No. 9979 of 2001 before the Tribunal; during the pendency of the said application, he was promoted on officiating basis with effect from 26-4-2002. The said Application No. 9979 of 2001 was disposed of on 4-12-2003, giving liberty to the petitioner to make necessary representation for considering his case for promotion with retrospective effect. Consequent of which, the petitioner filed Application No. 5112 of 2005 seeking such relief. The said application was allowed by the Tribunal by its order dated 10-2-2006, directing the respondents to consider the claim of the petitioner for grant of promotion with retrospective effect from the date on which he was placed on independent charge of the post of Inspector of Legal Metrology under Rule 32 of the Karnataka Civil Services Rules. In pursuance to such order, the Government by its order dated 13-3-2006 granted such promotion to the petitioner with retrospective effect i.e., from 5-1-1985 as Inspector of Legal Metrology.

2. Though the petitioner was given promotion with retrospective effect, as he was not granted monetary benefits, he gave representation to the Controller of Legal Metrology and on such representation, another order was passed in No. KaMaE/Staff-1/CR-37/05-06, dated 29-12-2007 fixing his pay notionally and arrears were granted only with effect from 26-4-2002, that is the date of his regular promotion. Aggrieved by the said order, petitioner approached the Tribunal with Application No. 6047 of 2008 and the said application was allowed and the respondents were directed to grant all consequential benefits to the petitioner in pursuance to the promotion which was given retrospectively i.e., with effect from 5-1-1985 vide order dated 22-6-2009.

3. Aggrieved by the said order, respondent 1-Deputy Controller of Legal Metrology preferred Writ Petition No. 2770 of 2010 (S-KAT) against the petitioner herein. The said writ petition was dismissed by the order dated 8th February, 2010, confirming the orders passed by the Tribunal granting all consequential benefits to the petitioner herein with effect from 5-1-1985. Meanwhile as the matter stood thus, one S. Lakshminarayana Reddy who was recruited directly in the cadre of the Inspector of Legal Metrology in 1985 batch, challenged the retrospective promotion accorded in the year 2006 to the petitioner herein and consequent assignment of rank in the final gradation list in the post of Legal Metrology by filing Application No. 1457 of 2007. The Tribunal oblivious of the orders passed in Writ Petition No. 2770 of 2010, dated 8-2-2010, deem it fit to allow the Application No. 1457 of 2007 vide order dated 23-5-2011. Aggrieved by the said order, petitioner has preferred the present writ petition challenging the same inter alia contending amongst other contentions -- that giving retrospective effect to the promotion of the petitioner does not in any way affect the seniority of the Inspectors appointed directly etc. In Writ Petition No. 2770 of 2010 it is observed as under:

Since we have already noticed that the retrospective promotion was granted with

effect from 5-1-1985 considering the fact that the respondent was eligible to hold the said post, under the said Rules. The respondent would be entitled to all the benefits as granted by the Tribunal. In this regard, we are also fortified in our view as per the decision rendered by the Hon"ble Supreme Court in the case of S.R. Bhagwat and others, Vs. State of Mysore,

On perusal of the impugned order dated 23-5-2011 passed in Application No. 1457 of 2007, it is found that neither the petitioner herein nor respondents 1 and 2 who were parties in the earlier writ proceedings had brought to the notice of the Tribunal about the disposal of the said Writ Petition No., 2770 of 2010 on 8-2-2010. In the circumstances, being unaware of such an order passed by this Court, the Tribunal has deemed it fit to consider the case on merits independent of such decision already rendered. Hence, the impugned order is liable to be quashed and the matter requires to be remitted to the Tribunal to consider the matter afresh in the light of the order passed by this Court in Writ Petition No. 2770 of 2007. Hence, the following order.--

Writ petition is allowed. The order dated 23-5-2011 passed in Application No. 1457 of 2007 on the file of Karnataka Administrative Tribunal, Bangalore, is hereby quashed and the matter is remitted to the said Tribunal for considering the case afresh in accordance with law.