
(2003) 03 KAR CK 0042
In the Karnataka High Court
Case No : Writ Petition No. 25825 of 2002

D. Venkatesh

APPELLANT

Vs

Bangalore University

RESPONDENT

Date of Decision : 13-03-2003

Acts Referred:

Citation : (2003) ILR (Kar) 1446 : (2003) 3 KarLJ 223 : (2003) 2 KCCR 1405

Hon'ble Judges : Kumar Rajaratnam, J

Bench : Single Bench

Advocate : K. Hanumantharayappa, for the Appellant; D.S. Ramachandra Reddy, for the Respondent

Final Decision : Allowed

Judgement

Kumar Rajaratnam, J.—Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

2. The petitioner's application for appointment in the Bangalore University on compassionate grounds was rejected on the ground that he was over-aged for considering the application.

3. Aggrieved by the order passed by the Bangalore University at Annexure-A that the petitioner cannot be considered for appointment on compassionate grounds. The petitioner has challenged that endorsement which is placed before me at Annexure-A.

4. It is not in dispute that the petitioner's date of birth as appeared in school records is 22-12-1965. In the matter of appointment on compassionate grounds, the Bangalore University has adopted the rules framed by the State Government. The Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 clearly states that a person seeking appointment on compassionate grounds shall be within the age limit specified for the post in the relevant rules of recruitment. In fact, the University went to the extent of seeking clarification from the State Government whether it was permissible to relax the age limit. The

State Government by its letter dated 1-4-2002 stated that it was not permissible to relax the age as it would create a bad precedent. It is under these circumstances, the petitioner's application was rejected.

5. It is settled law that appointment on compassionate ground cannot be given unless the rules provide for such appointment and if the rules provide for such appointment, it also should be provided for the minimum qualification necessary. In *Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another*, , the Supreme Court pronounced:

"Thus, apart from the directions as to appointment on compassionate grounds being against statutory provisions, such direction does not take note of this fact. Whatever it may be, the Court should not have directed the appointment on compassionate grounds. The jurisdiction under mandamus cannot be exercised in that fashion. It should have merely directed consideration of the claim of the 2nd respondent. To straightaway direct the appointment would only put the appellant-Corporation in piquant situation. The disobedience of this direction will entail contempt notwithstanding the fact that the appointment may not be warranted. This is yet another ground which renders the impugned judgment dated 19-10-1993 unsupportable".

In this case, the rules provide that no person who is over-aged can be considered for appointment in the University on compassionate grounds. These rules are not under challenge before this Court. Once these rules are in existence, the Bangalore University is bound by those rules. It is an admitted case of the petitioner that he is over-aged. In these circumstances, there is no merit in this writ petition.

6. Accordingly, the writ petition is dismissed. No order as to costs.