

(2021) 11 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 20597 Of 2021

Dr. Manjunatha J

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 19-11-2021

Acts Referred:

Indian Administrative Service (Appointment By Selection) Regulations, 1997 —
Regulation 3, 4

Citation : (2021) 11 KAR CK 0013

Hon'ble Judges : P.S. Dinesh Kumar, J; E.S. Indires, J

Bench : Division Bench

Advocate : M.S. Bhagwat, H.R. Showri

Final Decision : Disposed Of

Judgement

P.S. Dinesh Kumar, J

1. Petitioner, an Insurance Medical Officer working with the Labour Department, Government of Karnataka has submitted a representation on October 18, 2021 to the Deputy Secretary, DPAR1 with a request to reconsider the reckoning date for eligible Non-State Civil Service Officer for appointment to IAS of Karnataka Cadre. It is pleaded in para 4.4 in O.A. No.524/2021 filed by the petitioner that he was orally informed that he is ineligible for recommendation for IAS under appointment by selection.

2. Petitioner has filed O.A. No.524/2021 before the Central Administrative Tribunal² with a prayer inter alia to direct the State Government to send his name for selection for IAS. After hearing the matter on November 2, 2021, the CAT has issued notice returnable on November 18, 2021. Petitioner, in the earlier round of litigation filed W.P. No.19777/2021. This Court disposed of the said petition reserving liberty to the Department of Personnel and Administrative Reforms 'CAT' for short W.P No.20597/2021 petitioner to seek consideration of interim prayer on an early date.

3. On November 15, 2021, CAT has rejected the interim prayer by recording that the interim prayer is identical to the final relief. Hence, this writ petition.

4. Shri. M.S. Bhagwat, learned Advocate for petitioner submitted that:

The impugned order has been passed only by the Administrative Member. Hence, it is unsustainable in law; As per Notifications dated September 28, 2018 and September 19, 2019 (Annexures-A4 & A5), there are in all four posts for Non-SCS Officers to be considered for IAS. The Officer Shri. Aiyappa M.K., has retired on March 31, 2019 and three other Officers mentioned in the Notification dated September 19, 2019 have retired in 2020. Therefore, as per Regulation 4 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997, petitioner is eligible for consideration of his candidature;

'1997 Regulation' for short W.P No.20597/2021 The last date for sending the names to the DPAR by the respective heads of the Department is November 20, 2021.

5. With these submissions, he prayed for an interim direction against fourth respondent to forward petitioner's name to the third respondent.

6. Shri. Showri, learned AGA for the State submitted that a candidate for consideration of his case ought to have completed eight years of qualifying service as on first day of January of the year in which his case is being considered. He further submitted that the vacancies are of the year 2019-2020. Admittedly, petitioner does not have qualifying service of eight years as on January 1, 2020 as per Regulation 4 of 1997 Regulations. He further submitted that pleadings are not complete in this petition. Therefore, consideration of petitioner's case at this stage would amount to pre-empting the decision by the CAT.

7. We have carefully considered rival contentions and perused the records.

8. So far as the first contention is concerned, it is recorded in the impugned order passed by the CAT that though there was no sitting of Division Bench on November 15, 2021 and it was informed that the Division Bench would sit on November 16, 2021, the learned Advocate for the applicant had pressed for an interim order. Thus, the impugned order has been passed at the instance of the petitioner. Hence, no grievance can be made in that behalf.

9. So far as the second contention is concerned, Shri. Bhagwat placed reliance on paras 18 and 19 in Government of India Vs. G. Limbadri Rao and others⁴ and submitted that the petitioner is eligible for consideration for the post which have fallen vacant during 2019 and 2020.

10. Admittedly, the matter is seized before the CAT, which is the appropriate forum for consideration of petitioner's grievance on merits. The interim prayer is to direct the fourth respondent to send the proposal to the third respondent. To issue such a direction, we have to hear the matter on merits and record a finding

whether petitioner is eligible for consideration as per Regulation 4 of 1997 Regulations. Shri. Showri is right in his (2004)7 SCC 702 W.P No.20597/2021 submission that the said exercise amounts to pre-empting the decision by the CAT.

11. In view of the above, in our considered opinion, it is just and appropriate for the CAT to decide the matter on merits. Shri. Bhagwat has submitted that November 20, 2021 is the last date to submit the proposals. Needless to mention that parties shall be bound by the decision rendered by the CAT in that behalf.

12. In the circumstances, we dispose of this writ petition reserving liberty to the petitioner to urge all contentions on merits before the CAT. We make it clear that we have not examined the matter on merits.

We request the CAT to expedite the hearing subject to load on its Board.

Petition is accordingly disposed of. No costs.