

(1977) 09 KAR CK 0004
In the Karnataka High Court
Case No : WP.6299 of 1977

G.K. Lokamatha

APPELLANT

Vs

Director of Technical Education and Another

RESPONDENT

Date of Decision : 21-09-1977

Acts Referred:

Karnataka State Civil Services (General Recruitment) Rules, 1957 — Rule 6(4)(B)

Citation : (1977) 2 KarLJ 391

Hon'ble Judges : Jagannatha Shetty, J

Judgement

1. Although this writ petition is set down for orders, by consent of parties, it is taken up for hearing and accordingly heard.

2. This is an unfortunate case in which the State Public Service Commission appears to have acted in haste.

The matter arises in this way. The petitioner was a teacher for a couple of years in Govt Junior College, Nelamangala, during the academic years 1973 to 1975. The Public Service Commission by notification dt.5th April, 1976, invited applications for the post of Lecturers in Science and Mathematics. The notification prescribed the maximum age limit of 33 years in the case of persons having two years or more teaching experience. In response to the said notification, the petitioner applied. On the last date for submission of applications, the petitioner was 33 years, 4 months and 25 days. That the petitioner had more than two years teaching experience was not in dispute. In proof of the same, she had produced the relevant certificate before the PSC. She had also intimated the PSC that she had experience in Govt service for full academic years 1973-74 and 1974-75. On the strength of the said service the petitioner claimed relaxation of the age limit to the extent of the service rendered by her under the Govt. The PSC was satisfied with the claim of the petitioner and selected her after an interview. She was placed in the "Reserve List". Later, she was also appointed and posted as a Lecturer in Channapatna, Polytechnic where she reported to duty on 12th January, 1977.

On 30th April, 1977 the PSC, without notice to the petitioner, made an order cancelling her selection. Consequent on the cancellation the Director of Technical Education made an order on 3rd May, 1977, terminating her appointment. The order reads thus:

"Govt of Karnataka, Dept of Technical Education Office of the Director of Technical Education in Kar Bangalore

No. DTE 288 ANT(1) 76 Dated 3-5-1977

MEMORANDUM

Sub: Establishment-Smt. G.K. Lokamatha, Lecturer in Science and Mathematics. Cancellation of appointment Order-Orders issued.

Ref: 1. O.M. of even number dt. 21-12-76.

2. Endorsement of even number dt. 1-3-77 to Smt. G.K. Lokamatha and copy to the Principal, Govt Polytechnic, Channapatna.

In the order second cited above, it has been stated that the Secretary, Karnataka Public Service Commission has been addressed for clarification in respect of eligibility of the appointment of Smt G.K. Lokamatha, and that she may attend to duty subject to the decision of the Karnataka Public Service Commission regarding her age for being eligible for the appointment. The Karnataka Public Service Commission have been consulted and it has been held that the experience gained on contract basis cannot be considered, for purposes of age relaxation. Accordingly, the Karnataka Public Service Commission in their Corrigendum No.R(1) 66/77-78/PSC dt. 30-4-77 have stated that the selection of Smt G.K. Lokamatha is treated as cancelled.

Hence, her appointment is terminated with immediate effect. A copy of the corrigendum is herewith enclosed.

Sd/-Director of Technical Education

Encl: One Copy of letter.

To Smt. G.K. Lokamatha, No.20, 8th Main Rd, Saraswathipuram, Mysore. (By Recorded delivery)."

The petitioner challenging the aforesaid two orders has approached this Court for relief under Article 226.

3. It is the contention of the petitioner that she was within the age limit prescribed under the notification of the PSC as she was entitled to the benefit of Rule 6(4)(b) of the Karnataka State Civil Services (General Recruitment) Rules, 1957 for the purpose of relaxation of age to the extent of her antecedent service.

4. In the statement of objections filed on behalf of the respondent, the claim of the petitioner has been disputed. It was contended that the petitioner rendered

service under a contract and the contract service stands excluded under Rule 6(4) (b).

The question, therefore, lies within a narrow compass. The question is whether the service rendered by the petitioner under Govt prior to her applying to the PSC could be taken into consideration for enhancing the maximum age limit prescribed for appointment.

5. Rule 6 so far as it is relevant provides:

"6. Age limit for appointment: (1) Save as otherwise provided in the rules of recruitment specially made and applicable in respect of any post, every candidate for appointment to the State Civil Service by direct recruitment must have attained the age of 18 and not attained the age of 33 in the case of a person belonging to any of the Scheduled Caste Tribe, 28 in the case of any other person on the last date fixed for the receipt of application or on such other date as may be specified by the appointing authority in respect of any posts or classes of posts.

* * * * *

(4) Notwithstanding anything contained in sub-rule (1) the maximum age limit for appointment shall be deemed to be enhanced in the following to the extent mentioned, viz., (b) in the case of a candidate who is or was holding a post under the Government or a local authority or a corporation owned or controlled by the Government, by the number of years for which he is or was holding such post or five years whichever is less."

6. The rule does not provide that the service rendered under a contract stands excluded from its purview. The rule applies uniformly to all candidates who held the post under the Government or a local authority or a Corporation owned or controlled by the Government. If that much is satisfied, then, the nature of service rendered by the candidates becomes immaterial. It may be temporary service or permanent service, or service under any contract basis. That appears to be the intent of the rule. To interpret the rule in any other manner would lead to anomalies and arbitrariness, which must be avoided under the canon of construction.

The petitioner who was in Government service for a little over two years was, therefore, entitled to the benefit of the rule and the view to the contrary taken by the respondents cannot be supported.

7. In the result, rule is made absolute and the orders impugned (Exhibit "J" and Exhibit "K") are hereby quashed, with a direction to respondent-1 to reinstate the petitioner with consequential benefits.

8. Mr. H.N. Narayan, learned High Court Government Pleader, is permitted to file his memo of appearance within two weeks from today.