
(2005) 01 KAR CK 0049
In the Karnataka High Court
Case No : Writ Petition No. 30886 of 2003

H.P. Lakshminarayana

APPELLANT

Vs

Karnataka Forest Development Corporation Limited and
Others

RESPONDENT

Date of Decision : 07-01-2005

Acts Referred:

Citation : (2005) ILR (Kar) 565 : (2005) 2 KarLJ 73 : (2005) 2 KCCR 117 SN

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : M.S. Bhagwat and H.S. Sheshadri, for the Appellant; G.S. Kannur, for R1 and 2 and Rosa Perumal, HCGP for R3, for the Respondent

Judgement

K. Sreedhar Rao, J.—The petitioner is working as Assistant Divisional Manager in the first Respondent-Corporation and has put in 9 years of service in the present cadre. The next promotional post is Divisional Manager/Project Officer. According to recruitment rules of the first Respondent, the promotional post of Divisional Manager/Project Officer could be filled up by the deputation from the post of Deputy Conservator of Forest from the Forest Department or by promotion from the cadre of Assistant Divisional Manager, who have put in minimum of 7 years of service. At present there are 7 Divisional Manager posts in the 7 divisions of the first Respondent and all the 7 posts are filled up by the deputation.

2. It is the grievance of the petitioner that the eligible Assistant Divisional Managers, who are in service of the first Respondent, are not being considered to the post of Divisional Manager. Therefore, seeks a direction to repatriate all deputationists and to fill up 7 posts by promotion from the cadre of Assistant Divisional Manager. The petitioner also seeks relief to direct the respondents to promote him to the post of Divisional Manager.

3. The Learned Counsel for the petitioner relied on the ruling of the Supreme Court in JAIRAM SHARMA and JAMMU DEVELOPMENT AUTHORITY in para 4, the following observations are made;

"4. Counter-affidavit has been filed by the Respondent contending that appellant's seniority was considered with effect from the date when the vacancy had arisen after the retirement of the 5th Respondent. The above action is obviously illegal and an arm twist to nepotism. When the appellant was a regular candidate as office Superintendent, he was entitled to be considered in preference to the deputationist, who is not a member of the service as on that date. He was wrongly denied of his legitimate right to be considered for appointment on the date when the 5th respondent was appointed. It is, therefore, directed that the appellant must be considered to have been regularly appointed with effect from the date on which the 5th respondent was promoted as P.R.O and in terms of the order passed by this Court. His entitlement would be considered according to the rules within a period of three months from the date of the receipt of this order".

4. The contentions of the learned Counsel for the respondents that filling up of the post of Divisional Manager by deputation is perfectly legal in accordance with law and that the petitioners are not entitled to the relief in the petition is untenable in view of the ratio laid down by the Supreme Court in the above cited case. The recruitment rules do provide for deputation and for promotion, the persons who are in regular service of the Corporation will have legitimate expectation of promotion as a just and legal reward for the sincere service they render to the Corporation. If the Corporation were to adopt the step-motherly attitude of getting people by deputation denying the legitimate opportunity of the in service officers, it would badly demoralize the cadres and would kill their zeal to serve the institution with sincerity. Besides, it would also hamper their efficiency, Ultimately, having telling effect on the performance of the Corporation. Of course, it is not permissible for the petitioner to seek that he should be promoted, but there is a duty on the part of the first Respondent to consider all eligible in service officers for promotion. When they are found unsuitable, the Corporation can resort to importing by deputation as envisaged in the service rules.

In that view of the matter, it is directed that the Corporation shall consider the case of the petitioner and other eligible persons in the cadre of Assistant Divisional Manager for promotion and thereafter take suitable action in accordance with law. If need be repatriating the deputationists, if the in service Assistant Divisional Manager are found to be suitable for the promotional posts. Accordingly, the Writ Petition is disposed of.