

(2002) 02 KAR CK 0067

In the Karnataka High Court

Case No : Writ Petition No's. 13687 and 13688 of 1999 (S)

H.S. Umesha Prasad and Another

APPELLANT

Vs

The Karnataka Electricity Board, Bangalore and Another

RESPONDENT

Date of Decision : 14-02-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2002) ILR (Kar) 1452 : (2002) 2 KarLJ 448 : (2002) 2 KCCR 1153

Hon'ble Judges : A.V. Srinivasa Reddy, J

Bench : Single Bench

Advocate : Subba Rao and Company, for the Appellant; B.C. Prabhakar, for the Respondent

Final Decision : Allowed

Judgement

A.V. Srinivasa Reddy, J.—The common complaint of the petitioners herein is that their juniors who have been appointed subsequent to them are getting one additional increment consequent upon interpreting a Board Order to the disadvantage of the petitioners. Hence, they have prayed for quashing of Annexure-C.

2. The facts of the case, briefly stated, are as under:

The first petitioner joined service in Karnataka Electricity Board ("K.E.B." for short) as Assistant Engineer on 2nd September, 1977 and the second petitioner joined service of the Board also as Assistant Engineer on 4th September, 1977. Their pay was fixed in the scale of Rs. 720-1405 which was subsequently revised from time to time. Both the petitioners are at present working as Assistant Executive Engineers. The last revision of the pay scale was done on 6-2-1999 fixing the scale at Rs. 8550-18550 for Assistant Executive Engineers. The grievance of the petitioners is that, in applying these scales of pay to the Assistant Executive Engineers of the Board, by virtue of the Board Order Annexure-C, an anomaly has crept in by which the persons who are very much

junior to the petitioners are made entitled to one additional increment resulting in these petitioners drawing less salary than their juniors. Hence, the present petitions.

3. I have heard the learned Counsels on both sides.

4. In Karnataka Electricity Board Vs. Venkatkrishna, , a Division Bench of this Court dealing with a similar issue held:

"The guarantee of equal protection under Article 14 embraces the entire realm of "State action" including the vagaries of the executive. Article 14 unlike other fundamental rights, is not so much a right to persons, but an unequivocal admonition administered to the State by the Constitution that it shall not discriminate persons belonging to the same class while conferring benefits or imposing liabilities on them. It is a command issued by the Constitution to the State as a matter of public policy with a view to implement its object of ensuring the equality of status and opportunity. In this way, it does, indeed strike at arbitrariness in State action and ensures fairness and equality of treatment. It is the solemn duty of Judges to see that the State does not endanger this equality of treatment commanded by the Constitution".

In D.P. Krishnappa v Karnataka Electricity board and Ors. W.P. No. 13946 of 1988, DD: 19-6-1996, a similar question came up for consideration before this Court and the matter was disposed of by the learned Single Judge, in the following terms:

"Here in the present case, after the settlement between the employees of the Board and K.E.B. there is disparity in the pay scale of the petitioner with that of the 5th respondent which is not only arbitrary but highly discriminatory. It is bounden duty of the respondent-Board to equate the pay scale of the petitioner with that of respondent at par".

The tenor of these decisions leaves nothing to doubt that irrational treatment of Government servants in the matter of fixing their pay cannot be sustained in law. If subsequent revision of pay scale results in a junior getting more pay than a senior, it goes without saying that such an anomaly must be removed as such arbitrariness cannot be allowed to persist. Therefore, following the decision of the Division Bench and that of the learned Single Judge, referred to supra, these petitions have to be allowed.

5. In the result, for the reasons stated above, these writ petitions are allowed with a direction to step up the pay of the petitioners on par with that of their juniors. However, the entitlement of the petitioner to monetary benefits consequent upon the stepping up would be three years prior to the date of filing of the Writ Petition Nos. 10867 and 10868 of 1991. The petitioner would not be entitled to claim monetary benefits prior to the date of filing of the said writ petitions.