

(1999) 05 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 24132 of 1990

Jaykumar Anagol

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 28-05-1999

Acts Referred:

Constitution of India, 1950 — Article 318

Citation : (1999) ILR (Kar) 2843 : (1999) 6 KarLJ 489

Hon'ble Judges : Chandrashekaraiyah, J

Bench : Single Bench

Advocate : Sri. N.B. Bhat, for the Appellant; Sri Ahok Naika, High Court Government Pleader, for the Respondent

Judgement

1. The petitioner was appointed as a member of the Karnataka Public Service Commission (for short, "KPSC") on 16-4-1983. At the time of his appointment as member of the KPSC, he was holding the post in the super time-scale of IAS and drawing a basic pay of Rs. 2,750/- and Dearness Allowance of Rs. 2,550/-. On his appointment as a member of the KPSC, he became a constitutional functionary and his status as Government servant came to an end. When he was holding the post of member of the KPSC, the pay scale of the IAS super time-scale was revised with effect from 1-1-1986. As the benefit of this revision of pay scale was not extended to the petitioner, he is before this Court.

2. This petition is for a direction to the respondents to grant the revision of pay scale with effect from 1-1-1986 and pay him the arrears of salary for the period from 1-1-1986 to 15-4-1989. The respondents have stated in their statement of objections that the petitioner is not entitled to claim the benefit of revised pay scale as he was not eligible under the relevant rules.

3. The real controversy that arises for consideration in this case is.--

"Whether the petitioner is entitled for the benefit of the revised pay scale of IAS Officers with effect from 1-1-1986 till his retirement as member of the KPSC?"

4. The Governor of Karnataka, framed the regulations called the Karnataka Public Service Commission (Conditions of Service) Regulations, 1957 (hereinafter referred to as "the Regulations") under Article 318 of the Constitution. Clause 4 of the Regulations reads as follows.--

"There shall be paid to the Chairman a salary calculated at the rate of Rs. 3,000/- per month and to each of the other members a salary calculated at the rate of 2,500/- rupees per month:

Provided that a person who at the time of his appointment to the Commission is holding a post under the Government of India or the Government of a State shall on appointment as Chairman or other member receive the pay and the Dearness Allowance, if any, which he would have drawn from time to time under the relevant rules in the scale of pay of the post which he held before such appointment or the pay mentioned in clause (1) and the Dearness Allowance admissible in these regulations, whichever is higher. In either case, the other allowances shall be at the rates prescribed in these regulations".

(emphasis supplied)

5. At the time the petitioner was appointed as member of the KPSC, he was holding the post in the super time-scale of IAS. Under the above proviso the petitioner is entitled to receive the pay and D.A., which he would have drawn from time to time under the relevant rules in the scale of pay of the post which he held before such appointment. If the petitioner had been continued as IAS Officer he would have retired from service on 30-4-1985 afternoon and on retirement as IAS Officer he is not entitled to claim the benefit of revised scale which came into force with effect from 1-1-1986. No doubt the petitioner is deemed to have retired from Government service with effect from 16-4-1983 on his appointment as a Member of the KPSC. But this deemed retirement will not in anyway entitle him to get the revision of pay scale which came into effect after his retirement on attaining the age of 58 years on 30-4-1985, if he had been continued in service as IAS Officer.

6. Under the proviso referred to above the petitioner is entitled for pay from time to time under the relevant rules. The relevant rules under which the petitioner is entitled for revision of pay scale is IAS (Pay) Rules, 1954. Under these rules, the petitioner is not entitled for revision of pay scale after his retirement, if he had been continued as IAS Officer. Therefore, the benefit of revision of pay scale subsequent to the retirement of the petitioner on attaining the age of superannuation if he had been continued as IAS officer, is not applicable to the petitioner.

7. The petitioner has stated that the benefit of revision of pay scale was extended to one Sri N.M. Lingaraju, whereas in his case the benefit of revision of pay scale has been denied. In the statement of objections, it is stated that Sri N.M. Lingaraju was holding the post of District Judge at the time when he was appointed as member of KPSC. The pay scale of District Judge, was revised prior

to his retirement as District Judge if he had been continued in that post. From these facts, it is seen that the benefit extended to N.M. Lingaraju, is under a different circumstance. Hence, there is no discrimination between the petitioner and Sri N.M. Lingaraju, in the matter of extending the benefit of revision of pay scale.

8. For the reasons stated above, the petitioner is not entitled for any relief as prayed for in this petition.

9. Accordingly, writ petition is dismissed. Rule is discharged.