

(2015) 02 KAR CK 0044

In the Karnataka High Court

Case No : Writ Petition Nos. 102127-102129 of 2015 [S-RES]

Koteppa and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2015) 02 KAR CK 0044

Hon'ble Judges : Aravind Kumar, J.

Bench : Single Bench

Advocate : Jagadish Patil, Advocate, for the Appellant; Ravi V. Hosamani, A.G.A., for the Respondent

Judgement

Aravind Kumar, J.—Heard the arguments of learned advocates appearing for the parties. By consent of learned advocates appearing for the parties, matter is taken up for final disposal.

2. Petitioners are seeking for quashing of the revised provisional list published by fifth respondent on 10.12.2014 Annexure-G contending inter alia that they came to be appointed as teachers at Morarji Desai, residential school run by Social Welfare Officer through its organisation called Karnataka Residential Educational Institutions Society (R-5), and pursuant to notification issued on 27.04.2011 inviting applications from eligible candidates to fill up the posts of teaching and non teaching staff at Navodaya Model/Morarji Desai/Kittur Rani Chennamma Government Residential Schools which provided for extending service weightage of teachers/staff already working in the said institutions by providing-extending the benefit of weightage for each completed year of service and as such pursuant to said notification, petitioners claim to have applied for the post with all relevant documents. The grievance of the petitioners is that without extending the benefit of weightage of each completed year of service a final list was published on 29.05.2012 relating to teaching and non teaching staff in which list the name of the petitioners did not find a place. Some of the teachers who were similarly placed as that of the petitioners herein had approached this court in W.P.

20204-20364/2011 and said writ petition came to be allowed by this court by order dated 13.07.2012 whereunder the following directions came to be issued amongst others:

"(v) The respondents to complete the selection process pursuant to the recruitment notification dated 27.04.2011 by granting the benefit of service weightage to the petitioners and all other similarly situated Principals and teachers.

(vi) Since respondents have already processed the applications and issued final selection list and additional selection list, they have to redo the process of selection by extending the benefit of service weightage to the petitioners and similarly situated candidates".

3. Petitioners herein contend that direction issued by the Co-ordinate Bench of this court came to be affirmed in W.A. 5127/2012 on 28.02.2013 vide Annexure-D and assurance came to be given by respondent authorities that in the subsequent appointments petitioners would be extended weightage and grace marks of 5% for every completed year of service would be given. They contend that to their utter dismay a provisional list was published on 07.07.2014 Annexure-E whereunder names of the petitioners did not find a place and as such petitioners submitted their objection to said list indicating thereunder, as to how they are entitled to service weightage vide their objections, Annexure-F. They contend that objections filed by them was not considered and a revised provisional list was published on 10.12.2014 Annexure-G which also did not contain the names of petitioners. They also contend that fifth respondent has not extended service weightage to the petitioners and as such their names have been deleted and does not find a place in the revised provisional list dated 10.12.2014 Annexure-G and as such they are seeking for quashing of the same.

4. In identical circumstances W.P. 1, 13076/2004 and connected matters came to be filed and same had come up for consideration before this court on 21.01.2015. After considering the submission made by Sri Sunil Desai, learned counsel appearing for 5th respondent and recording the same, said writ petition came to be disposed of as under:

"4. Sri Sunil Desai, learned counsel appearing for R. 5 in all these petitions would fairly submit that some of the petitioners namely petitioners being aggrieved by the provisional list dated 10.12.2014 Annexure-F have already submitted their representations requesting to redo the list and also to include their name/s in compliance with the directions already issued by this Court on 13.07.2012 in W.P. No. 20204-20364/2011 and connected matters and said representation is under active consideration. He would also hasten to add that claim of all the petitioners who are before this Court and all other teachers who are similarly placed and their respective claims for including their names in the revised list would also be considered in the light of directions issued by this Court and submits that if they are found eligible, they would be included in the final list, as otherwise, they

would be intimidated by issuing an endorsement indicating the reasons or grounds on which their application is being rejected or their names are not being included in the final list. His submission made in this regard is placed on record."

5. In fact, in the above writ petition the standing counsel appearing for 5th respondent had made submission that not only claim of the petitioner who is before the Court would be considered but all similarly placed persons who are claiming weightage would also be considered and by placing said submission on record W.P. No. 113076/2014 and connected matters came to be disposed of as under:

6. At the cost of repetition, by placing the submission made by Sri Sunil Desai, which is to the effect that claim of the petitioners would be considered and if they fulfill the criteria of the directions issued by this Court, they would accordingly consider the claim of all the petitioners and similarly placed persons, these writ petitions stand disposed of by recording said submission.

(emphasis supplied)

6. Marked difference which can be noticed in the present writ petition is that name of the petitioner herein did not find a place in the first provisional list unlike names of the petitioners in Writ Petition No. 113076/2014 and connected matters finding a place. However, claims of the present writ petitioner is similar and identical to the claim made by the petitioners in W.P.No. 113076/2014 and connected matters.

7. In that view of the matter, this Court is of the considered view that if a direction is issued to the 5th respondent to consider the objections of the petitioner as per Annexure - F dated 18.07.2014 and pass necessary orders thereon it would meet the ends of justice.

8. It is needless to state that if the petitioner fulfills the eligibility criteria, as per the directions issued by this Court in W.P. No. 20204/2011 and connected matters disposed of on 13.07.2012, 5th respondent shall extend the same to the petitioner or in the alternate petitioner may be informed by issuance of an endorsement indicating thereunder the reason for such rejection if any, by a speaking order so as to enable the petitioner to pursue his grievance in accordance with law.

Petitioners are also at liberty to furnish fresh representation to 5th respondent which would be in addition to objections Annexure-F already filed by them enclosing therewith service particulars so as to enable fifth respondent to take effective steps for extending service weightage if they are entitled to.

Ordered accordingly.