
(1968) 06 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 1920 of 1964

Krishnamurthi (R.)

APPELLANT

Vs

Director of Public Instruction, Mysore and Others

RESPONDENT

Date of Decision : 19-06-1968

Acts Referred:

Citation : (1968) ILR (Kar) 579 : (1969) 2 LLJ 34 : (1968) 2 MysLJ 297

Hon'ble Judges : Ahmed Ali Khan, J;A.R. Somnath Ayyar, J

Bench : Division Bench

Judgement

Somnath Ayyar, J.—The petitioner was appointed as a teacher as a local candidate, and on 1 January, 1960 he was in service. That service came to an end on 31 March, 1960 and he was again appointed by an order made on 1 June, 1960 under which he joined service on 13 June, 1960 and from that date he continues to be in service. He sought regularization of his appointment from the date on which he was initially appointed as a local candidate, and since the said regularization was refused, he seeks a direction for such regulation.

2. In support of his claim for regularization, he depends upon the order of Government made on 22 September, 1961 which directs that in areas other than the old Mysore area, appointments to class III direct recruitment posts made by local appointing authorities up to 1 June, 1960 shall be regularized subject to two conditions regarding age and qualification. This is the direction in Para. 1(ii) of that notification which has relevance to the case before us. In Para. 2(ii) the notification directed that such regularization of local candidates shall be made with effect from the date of their appointment from which their services from 1 January, 1960.

3. It is not disputed that the petitioner fulfilled the two conditions referred to in Para 1(ii) regarding age and qualification. It is not disputed that one of the two conditions to which Para 2(ii) refers also exists, namely, that the petitioner was in service on 1 January, 1960.

4. But the Government Pleader defended the refusal of regularization on the ground that the petitioner was not in continuous service after 1 January, 1960 until the date of regularization which is the date of the Government notification. According to his interpretation of Para. 2(ii), no local candidate who has not been in continuous service after 1 January, 1960 until the date of regularization can claim the benefit of regularization. He, therefore, argued that since the petitioner's services were terminated on 31 March, 1960 and he was appointed again only on 1 June, 1960, the notification became inapplicable.

5. We do not agree. That is not how we should understand Para. 2(ii) of the notification. The meaning of that sub-paragraph is that a local candidate will be entitled to regularization if he was in service on 1 January, 1960 and if he was also in service at the time his service has to be regularized. The words "at the time their services were regularized" refer to the point of time when the claim to regularization is born under the Government notification is born under the Government notification Paragraph 2(ii) of the notification does not say that the local candidate should be in continuous service after 1 January, 1960. It specifies only two points of time when he should be in service. The first point is 1 January, 1960 and the second is the date on which the services have to be regularized.

6. Now the Government notification under which regularization is claimed was made on 22 September, 1961 and on that day he was in service. He was also in service on 1 January, 1960, and so the two conditions which should be established to support the claim for regularization undoubtedly existed. The meaning of Para. 2(ii) is that the local candidate should be in service on 1 January, 1960 and that he should again be in service when the regularization could be claimed.

7. That that is how that paragraph is to be understood is clear from what was done in case of respondents 4, 5, and 7. In the case of all those respondents, they were in service on 1 January, 1960 but did not continue in service thereafter. There was more than one break in their service thereafter. But they were in service on the date of the notification, and in the case of all those three persons regularization was made and it does not stand to reason that such regularization should have been refused in the case of the petitioner.

8. So, it is clear that we should issue a direction for the regularization of the petitioner's services. That direction is that his services shall be regularized from the date of his appointment from which he was in continuous service.

9. No costs.