
(1979) 11 KAR CK 0022
In the Karnataka High Court
Case No : WP 11601/78

Kulkarni, N.D. and Another

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 12-11-1979

Acts Referred:

Karnataka Recruitment At Gazetted Probationers Rules, 1966 — Rule 9

Citation : (1980) 1 KarLJ 159

Hon'ble Judges : Rama Jois, J

Judgement

1. The petitioners, who are candidates for selection for appointment by direct recruitment to the cadre of Section. Officers in the Karnataka Government Secretariat before the Karnataka Public Service Commission, have presented this writ petition praying for quashing the notification issued by the Public Service Commission, excluding the petitioners from the list of persons called for personality test and also for a direction to the Public Service Commission to call them for personality test.

2. By notification dated 24-12-1977 Ex.A. the Public Service Commission called for applications for selection for appointment to 13 posts of Section Officers by open competition. The petitioners submitted their application to the Commission. The Commission conducted the examination in accordance with the provisions of the Karnataka Recruitment of Gazetted Probationers Rules, 1966. According to rule 9 of the Rules, the Commission is required to call for personality test such number of candidates as are equal to ten times the number of posts advertised, out of the candidates who are successful in the written examination. Accordingly, the Commission by notification dated 16.9.1978 (Ext. B) published a list, of candidates who were successful in the written examination and who were eligible for personality test. The petitioners' register numbers 145 and 230 were also included. By a subsequent notification dated 22.9.1978 (Ext. C) the Commission modified the list of candidates eligible for admission to personality test. The register numbers of the petitioners were omitted in the said list. Aggrieved by the omission, the petitioners have presented this writ petition.

3. In the statement of objections filed on behalf of the respondents, the reason for reducing the number of candidates eligible for personality test is explained. The reason given is that by notification dated 29-8-1978 the Governor in exercise of his powers under proviso to Art. 309 of the Constitution amended the Karnataka Secretariat Services (Recruitment) Rules, 1957, and by the said amendment, the quota of posts of Sections Officers to be filled up by direct recruitment was reduced from 25 to 10 per cent and consequently the number of direct recruitment vacancies got reduced from 13 to 5. Rule 9 of the Gazetted Probationers Rules, as pointed out earlier, permits only such number of candidates as are equal to ten times the number of posts that are required to be filled up by direct recruitment by competitive examination in the order of merit to be called for personality test. It is explained that in view of this amendment, the number of candidates who could be called for personality test had to be reduced having regard to the fact that only 5 posts became available for being filled up by direct recruitment.

4. The learned counsel for the petitioners contended that as the amendment was made subsequent to the holding of competitive examination it was incumbent on the part of the Public Service Commission to have called the petitioners for personality test and it was illegal for the Commission to have amended the list as it would amount to giving retrospective effect to the amendment rules dated 29.8.1978.

5. I am unable to agree. The Public Service Commission, after holding the competitive examination, published the list of candidates eligible for personality test on 16.9.1978. Even before the said date the recruitment rules were amended by the Governor on 29.8.78 and it was published in the official gazette on 7.9.1978. Therefore on and after the date of amendment only 5 posts of Section Officers became available for direct recruitment though the Public Service Commission had advertised 13 posts. In view of the said amendment, the notification issued by the Public Service Commission on 16-9-1978 itself contravened rule 9 of the Gazetted Probationers Rules. So long the Public Service Commission had not finalised the list of selected candidates, any amendment made to the recruitment rules is binding on the Commission and on and after the amendment, the Commission has to take steps in accordance with the amended rules. (See: Krishna Rai v. State of Mysore, 1963 Mys. L.J. Supp. 261. Therefore after the amendment the petitioners had no right to be called for personality test. Hence there is no merit in the contention that the impugned notification issued by the Public Service Commission notifying the modified list of candidates for personality test is contrary to law.

6. For the reasons aforesaid. I make the following order:

(i) Rule discharged.

(ii) Writ petition is dismissed.

(iii) No costs.