

(2006) 08 KAR CK 0046
In the Karnataka High Court
Case No : Writ Petition No. 4078 of 2003

M. Puttamadaiah

APPELLANT

Vs

The General Manager (HRD), Karnataka Power Transmission Corporation Ltd. and The Executive Engineer (ELEC) (Works and Maintenance)

RESPONDENT

Date of Decision : 21-08-2006

Acts Referred:

Karnataka State Electricity Board Employees Service Regulations — Regulation 182 (1), 182A

Citation : (2006) 08 KAR CK 0046

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : V.S. Naik and Manjula N. Kulkarni, for the Appellant; M.S. Bharathi, for Harikrishna Holla, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ petition by a person who was an employee of the Karnataka Power Transmission Corporation Ltd., which was earlier known as Karantaka Electricity Board and before that Mysore State Electricity Board, in its previous avatars.

2. Petitioner retired from service with effect from 31-10-1999, after having served for about 28 years, having joined service on 22-5-1971. The petitioner is drawing pension computed on the basis of the services in the Board/Corporation for this period of service. The petitioner in fact had claimed for taking into consideration the erstwhile services the petitioner had rendered in the judicial department with effect from 18-10-1969 to 21-5-1971, as a period which qualifies for computing pension, as it was the case of the petitioner that the petitioner having worked in government department during that period, it should be taken as qualifying service in terms of Regulation 182(A) of the Karnataka State Electricity Board Employees Service Regulations [for short, the

Regulations). The claim of the petitioner having been turned down by the respondent-corporation, the present writ petition is filed challenging the decision of the corporation declining to heed the request of the petitioner.

3. The respondents have filed statement of objections and have contended that the petitioner is not entitled for such benefit; that Regulation 182(A) of the Regulations does not enable the petitioner to claim the period between 18-10-1969 and 21-5-1971 when the petitioner had worked as assistant in the judicial department in a temporary capacity to claim computation of pension; that it is neither qualifying service nor one which is a service in continuity on joining the Board; that there is no continuity of service and as such the petitioner is not entitled to claim the benefit of this period also as a qualifying period for computation of pension payable to the petitioner.

4. I have heard Ms Manjula N. Kulkarni, learned Counsel for the petitioner and Ms Bharathi, learned Counsel for the respondent.

5. Submission of learned Counsel for the petitioner is that in terms of Regulation 182(A), which reads as under:

182(A): Whenever pensionable service has been rendered in continuation of service in government, local bodies, district boards, municipalities, etc., former state Railways of Mysore and Hyderabad, central or state government concerns or autonomous bodies or organizations set up by the government of India or the State Government, the service rendered in such institutions shall count as qualifying service for pension subject to the following conditions:

XXX

the petitioner having served in a government department right upto 21-3-1971, there is continuity of service; that the earlier service being in a government organization, which is one of the approved organizations for qualifying service and continuity of service in terms of Regulation-182(A), the petitioner is entitled to claim the benefit; that the respondents have committed an error in denying such benefits to the petitioner.

6. It is also the alternative submission of the learned Counsel for the petitioner that the respondents themselves have conferred such benefits on similarly placed employees of the Board; that in terms of Annexure-C and D, such benefits have been conferred on other similarly placed employees and therefore a direction should be issued to the respondents to extend the very benefit which the corporation itself had extended in the case of other employees.

7. Per contra, Ms Bharathi, learned Counsel for the respondents, submits that Regulation 182(A) of the Regulations enables a person to claim benefit of earlier service as qualifying period for computation of pension payable by the Board on retirement from services of the Board only when such service was a regular service and in continuity of the service rendered by the employee on joining the services of the Board.

8. It is submitted that the appointment of petitioner in the services of the Board is an independent appointment and not as a continuation of service rendered earlier in the judicial department. It is also submitted that even the petitioner was not an employee on regular basis but was only a temporary basis; that Regulation 182(A) does not extend the benefit to a person like petitioner and in this regard learned Counsel has placed reliance on unreported decision of this Court dated 30-8-2001 rendered in WP No. 3541 of 2001.

9. I have perused the petition pleadings and bestowed my attention to the submissions at the Bar. Regulation 182(1) of the Regulations is no doubt an enabling regulation seeking to extend certain benefits in the matter of computation of pension to the employees of the board, who had earlier served in the organizations referred to in the Regulation and whose services in the board is in continuation of such service. If the petitioner's service was on a regular basis in the judicial department and if it can be said that the service in the Board in continuation of the earlier service, the petitioner is no doubt become eligible for the benefit. Unfortunately, on facts it is found that the petitioner's service in the judicial department was not on regular basis and there is no indication to infer that the services in the board is a continuous service of the earlier service of the petitioner in the judicial department.

10. The concept of continuity of service is that the work in the earlier organization should be one which provides an opportunity for such employee to join the services of the Board and to continue the service. It can be in a situation where the earlier organization either goes out of existence or some of the employees are retrenched and/or rehabilitated by a general scheme of the government or because of an understanding with the Board and the organization that such employees are absorbed into the service of the petitioner. In the present case, the petitioner himself has joined the services of the Board. There is no concept of continuity of service in the employment of the Board. Moreover, the concept of earlier service also is a service on regular basis and cannot be any other type of service like temporary or even a casual one.

11. Viewed from any angle, I am unable to accept the submission that the petitioner is a person who qualifies for the benefit of continuity of service and consequential pensionary benefits on retirement from the services of the Board.

12. The reliance placed on at Annexure-C and D orders passed in respect of other employees in similar situation could have been a good argument if there was a possibility of interpreting Regulation 182(1) of the Regulations as is sought to be urged by the learned Counsel for the petitioner. But, on the other hand, if the Board on an earlier occasion on either incorrect understanding or in its own understanding had extended such benefits, which either it is realized later or had been not realized was not a proper one to compel the Board to follow the same line of action by calling upon the board to extend like benefits as had been extended to employees in terms of Annexure-C and D.

13. A writ of mandamus cannot be issued to any public authority to compel it to keep repeating its mistakes. At the best, the benefit extended earlier by a mistaken notion and the concession shown in favour of other employees does not become a right in favour of a person like the petitioner. It is for this reason I am unable to grant relief to the petitioner as sought for in the petition. There cannot be any direction to compel the respondent to extend the benefits as is sought for.

14. No ground to interfere with the matter. Writ petition is accordingly dismissed.