

(1997) 02 KAR CK 0013
In the Karnataka High Court
Case No : Writ Appeal No. 269 of 1993

Mallikarjun

APPELLANT

Vs

The Managing Director, Karnataka State Road Transport Corporation, Bangalore and Another

RESPONDENT

Date of Decision : 05-02-1997

Acts Referred:

K.S.R.T.C. (Cadre and Recruitment) Regulations, 1982 — Regulation 3A

Citation : (1999) 4 KarLJ 364

Hon'ble Judges : R.P. Sethi, C.J;S. Venkataraman, J

Bench : Division Bench

Advocate : Sri Ashok S. Mensinkai, for the Appellant; Sri B.B. Mandappa, for the Respondent

Judgement

R.P. Sethi, C.J.—Claiming to be working as helper with the erstwhile private stage carriage operators, the appellant filed Writ Petition No. 4075 of 1990 claiming consideration of his absorption with the respondent-Corporation. The writ petition was allowed with a direction to the Corporation to consider the case of the appellant in terms of Regulation 3-A. Pursuant to the orders of this Court, the respondent-Corporation considered the case of the appellant in terms of Regulation 3-A and rejected his prayer for absorption vide order at Annexure-B. Feeling aggrieved by the passing of the aforesaid order, the appellant filed another writ petition in this Court, which was dismissed by the learned Single Judge vide the order impugned in this appeal. The claim of the appellant was rejected on the ground that in terms of the scale fixed under Regulation 3-A, necessary absorption had been made by appointing such persons who were certified to be in the employment of the erstwhile owner of the vehicles taken over by the Corporation, upon nationalisation of the transport.

2. Learned Counsel appearing for the appellant has submitted that as his client had produced a certificate allegedly issued by his erstwhile owner, the Corporation was under an obligation to consider his absorption and that fractional

ratio of 0.5 amounted to a complete unit. It is true that no specific sponsorship by the employer is required, but it cannot be denied that the name of the person seeking absorption should have been brought to the notice of the authorities by the employer, as is required under Regulation 3-A, which provides:

"Appointment of the employees of the cancelled permit holder whose routes have been cancelled by the State Government.--Notwithstanding anything contained in Regulation 3 the Corporation or any Authority specified by the Corporation by a resolution may appoint the employees of the cancelled permit holders and whose buses are not plying elsewhere by relaxing the age, qualifications, physical standards and experience prescribed in these Regulations according to their suitability to any post sponsored in the Regulations subject to the following conditions:

(i) The number of workmen that shall become employees of the Corporation shall not exceed the following scale, the junior most being excluded.

Scale per vehicle

1.

Driver

2.00

2.

Supervisor Staff and Secretarial Staff

0.1

3.

Ministerial Staff and Managers

0.1

4.

Technical Staff including Foremen

0.75

5.

Conductors

1.5

(ii) Appointment shall be in the probation as prescribed in Regulation if and the selected persons are liable to be posted to work in any unit or Division of the KSRTC.

(iii) The appointment shall be on the basis of detailed verification of the records

and other employment particulars.

(iv) The Corporation shall appoint all such eligible persons under a special category irrespective of the cadres or reservation group by obtaining special exemption from the Government for not following the prescribed classification for appointment.

(v) The service of such persons shall be from the day they report for duty in the Corporation and their service conditions shall be governed in accordance with the Rules and Regulations of the Corporation. They will be treated as direct recruits and their past services with the cancelled permit holders shall not be given any weightage for any benefit in the Corporation".

3. In its order dated 23-10-1991, the respondent-Corporation considered the case of the appellant and rejected the same, holding:

"Further, the scale fixed for appointment of displaced persons, under Regulation 3-A of KSRTC (Cadre and Recruitment) Regulations, 1982 (introduced vide G.O. No. FTD 41 TRE 87, dated 1-8-1988) for the post of Helper 0.75 persons per vehicle, applying this scale for the said two vehicles one person to the post of Helper required to be appointed. This post has been filled in by selecting the eligible person from among the persons concerned with the cancelled permits after detail verification of employment particulars.

For the foregoing reasons, the petitioner Sri Mallikarjun is not entitled for appointment in the Corporation by virtue of Regulation 3-A. Hence, his request for appointment in KSRTC is hereby rejected".

4. Vide our order dated 12-12-1996, we directed the learned Counsel appearing for the respondents to ascertain as to whether the appellant could be appointed to the post of helper prospectively and without creating any precedent. In the statement of objections filed on behalf of the respondents, it is submitted that such an appointment is not possible. It is contended that if the prayer of the appellant is accepted, it would open the flood gates of such prayers of similarly situated other employees, who would insist for their employment. As the appellant has been found to be in excess of the scales which were permissible, he could not be absorbed. Along with the statement of objections, the respondents have annexed Annexures-R1, R2, R3 and R4 to justify their action that the absorption had been made in accordance with Regulation 3-A on the basis of the intimation received from the erstwhile owners and in accordance with the ratio prescribed under Regulation 3-A.

5. There is no merit in this appeal, which is accordingly dismissed.