

(2013) 12 KAR CK 0329

In the Karnataka High Court

Case No : Writ Petition No. 14012 of 2013 (S-K)

Mr. Cheluvaraj C.C.

APPELLANT

Vs

Karnataka State Road Transport Corporation

RESPONDENT

Date of Decision : 17-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0329

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : M. Narayana Bhat, for Subbarao and Co, for the Appellant; H.R. Renuka, for the Respondent

Final Decision : Allowed

Judgement

H. Billappa, J.—In this writ petition under Article 226 of the Constitution of India, the petitioner has called in question, the endorsement dated 5.3.2013, issued by the second respondent vide Annexure-"K". By the impugned endorsement at Annexure-"K", the petitioner has been informed that his request for promotion with effect from 23.3.2001 has been rejected and the promotion given to him w.e.f. 15.11.2003 has been cancelled and the order dated 27.3.2008 has been confirmed.

2. Aggrieved by that, the petitioner has filed this writ petition.

3. Briefly stated the facts are:

The petitioner was appointed as Trainee Supervisor in the year 1994. In the year 1996, the petitioner was appointed on probation and confirmed in the year 1998. The petitioner was transferred to BMTC in the year 2000. On 15.11.2003, the petitioner was promoted to the post of Superintendent. His relieving order was cancelled on 5.12.2003 and he was retained in BMTC. The petitioner informed that he is interested to continue in the promoted post. The juniors of petitioners were promoted with effect from 23.2.2001. The petitioner made representation dated 18.10.2011 to consider his case as well. The petitioner was granted

promotion with effect from 15.11.2003. Again, the petitioner made representation dated 14.3.2012 to consider his case for promotion with effect from 23.3.2001. The second respondent has issued endorsement dated 5.3.2013 as per Annexure-"K". The promotion of the petitioner with effect from 15.11.2003 has been cancelled and the request of the petitioner has been rejected. Therefore, this writ petition.

4. The learned counsel for the petitioner contended that the impugned endorsement at annexure-"K" cannot be sustained in law. He also submitted that without giving any opportunity to the petitioner his request for promotion with effect from 23.3.2011 has been rejected and the promotion given to the petitioner vide order dated 30.1.2012 has been cancelled and therefore, the impugned endorsement cannot be sustained in law as it is in violation of the principles of natural justice.

5. As against this, the learned counsel for the respondents supported the impugned endorsement. She also submitted that the impugned endorsement has been issued based on the representation of the petitioner and therefore, the impugned endorsement does not call for interference.

6. I have carefully considered the submissions made by the learned counsel for the parties.

7. The point that arises for my consideration is, Whether the impugned endorsement calls for interference? It is relevant to note, the petitioner has been appointed as Trainee Supervisor in the year 1994, on probation in the year 1996 and confirmed in the year 1998. He has been promoted to the post of Superintendent vide order dated 30.1.2012 w.e.f. 15.11.2003. The petitioner has given representation dated 14.3.2012 to consider his case for promotion with effect from 23.3.2001. The second respondent has issued endorsement dated 5.3.2013 stating that the request of the petitioner promotion w.e.f. 23.3.2001 has been rejected and the promotion given to the petitioner vide order dated 30.1.2012 w.e.f. 15.11.2003 has been cancelled and the order dated 27.3.2008 has been confirmed. Not only the request of the petitioner for promotion w.e.f. 23.3.2001 has been rejected but also the promotion given to the petitioner with effect from 15.11.2003 has been cancelled without any opportunity to the petitioner. An opportunity should have been given to the petitioner before cancelling his promotion and rejecting his request. Therefore, the impugned endorsement cannot be sustained in law.

Accordingly, the writ petition is allowed and the impugned endorsement dated 5.3.2013 vide annexure-K is hereby quashed. The second respondent is directed to reconsider the matter, in accordance with law, by giving opportunity to the petitioner.