

(1967) 06 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 259 of 1965

Pillappa (T.) and Others

APPELLANT

Vs

State of Mysore and Others

RESPONDENT

Date of Decision : 06-06-1967

Acts Referred:

Mysore Government Servants (Seniority) Rules, 1957 — Rule 1A

Citation : (1969) 2 LLJ 329 : (1967) 2 MysLJ 40

Hon'ble Judges : M. Sadanandaswamy, J;A.R. Somnath Ayyar, J

Bench : Division Bench

Judgement

Per Somnath Ayyar, J.—The four petitioners before us who were appointed as local candidates and who are now craft instructors in the Department of the Directorate of Employment and Training make a complaint that they are senior to respondents 4 to 32 but have been assigned lower ranks. Respondents 4 to 6 were promoted from class IV to class III in the year 1957 and it is asserted that since there was no provision for such promotions, their promotions are ineffective. Respondents 7 to 9, it is asserted, were appointed as craft instructors on 7 April 1960 without adherence to the procedure prescribed by the relevant recruitment rules. Respondents 10 to 32, it is alleged, were similarly appointed as craft instructors in disobedience to the provisions of the recruitment rules made by Government. It is asserted that by an order made by Government on 16 May 1962 the services of the petitioners who were appointed as local candidates were regularized with effect from earlier dates and their services from earlier dates count for seniority. It is by this process that the petitioner ask us to deduce the higher and senior ranks of the petitioners.

2. In regard to the argument that the petitioners' service stood regularized for all purposes from the anterior dates mentioned in the Government order of 16 May 1962, it is enough to observed that the Government order negatives the contention. That order makes it very clear that for the order makes it very clear that for the purpose of seniority the date of the Government order is the date

from which the services of the petitioners should be regarded as having been regularized, and that for other purpose such as leave, pension and increment, the local service would count.

3. Sri Satyanarayana urges that the Government order which selects the date of the Government order as the date from which for the purpose of seniority regularization must be regarded to have been made, contravenes the proviso to rule 1A of the Mysore Government Servants' (Seniority) Rules, 1957. That proviso states that where an appointment is treated as regularized from any date, the seniority in the service should be determined in accordance with those rules as if the appointment was regularly made on that date.

4. It does not appear to us that there is any inconsistency between this proviso and the Government order. The proviso speaks of the date of regularization, and when the Government order is read carefully, it becomes apparent that the date of the Government order was the date of regularization for the purpose of the proviso. The proviso preclude Government from making an order directing local service to be counted for purposes of leave, pension and increments, and it regulates only seniority which reference to the date of regularization which Government are free to select. This is the view which was expressed by this Court in Writ Petition No. 117 of 1963.

5. The challenge made to the appointment of respondent 4 to 32 on the ground that the promotions of respondents 4 to 6 were illegal and on the ground that the appointments of respondents 7 to 9 in one case and the appointments of respondents 10 to 32 in the other were made in disobedience to the provisions of the rules of rules of recruitment, has to fail on the short ground that the challenge is made as late as in the year 1965, whereas respondents 4 to 6 were promoted in the year 1957, respondents 7 to 9 were appointed in 1960, respondents 10 to 31 on 1 November 1960 and respondent 32 on 21 October 1961, and, until the presentation of this writ petition those promotions and appointments were called in question. We do not therefore feel persuaded to investigate the sustainability of the challenge made to those appointments and promotions or to investigate into the truth of the grounds on which the challenge rests.

6. We therefore dismiss this writ petition. No costs.