

(2012) 10 KAR CK 0009

In the Karnataka High Court

Case No : Writ Petition No. 39143 of 2012 (S-PRO)

Pyare Jaan and Another

APPELLANT

Vs

Karnataka Power Transmission Corporation Ltd. and Others

RESPONDENT

Date of Decision : 04-10-2012

Acts Referred:

Citation : (2013) 1 AKR 257

Hon'ble Judges : Subhash B. Adi, J

Bench : Single Bench

**Advocate : M. Subramanya Bhat and M/s. Subba Rao and Co, for the Appellant;
Subramanyam and B.C. Prabhakar, for the Respondent**

Final Decision : Allowed

Judgement

Subhash B. Adi, J.—Petitioners have called in question the endorsements dated 29.08.2012 produced at Annexures "N" and "N1" issued by the second respondent. The facts, which are not in dispute are that the first petitioner, against the order of retrenchment had approached the Labour Court, Bangalore, in Reference No. 83/1987. The Labour Court, by its award dated 07.07.1994, set aside the order of punishment and directed the respondent to reinstate the petitioner into original post with full back wages, continuity of service and consequential benefit.

2. The said order was called in question before this Court in W.P. No. 2032/1995. The said writ petition was allowed on 13.01.1998 holding that, the petitioners are entitled for lump sum compensation of Rs. 60,000/- each.

3. Petitioners preferred writ appeal No. 1759/1998 and the said writ appeal also came to be dismissed, as against which, the petitioners approached the Apex Court in Civil Appeal Nos. 4940 to 4941 of 2000. The Apex Court disposed of the appeals by its order dated 07.09.2000 inter alia observing as under:--

The Court usually considers the case of payment of lump sum compensation instead of directing reinstatement and back wages when it appears that the

employer has lost trust and confidence in the employee for some misconduct on the part of the employee. But this is not one of such cases and, therefore, taking into consideration the young age of the employees, it may not be proper to direct payment of compensation in lieu of the reinstatement. In course of hearing of this case, it was pointed out that even if the employees are reinstated, they would not be entitled to any promotion because of the qualifications prescribed by the Board. The employees are quite cognizant of the said qualifications and yet the learned counsel appearing for them prayed that they should be reinstated in the services. In this view of the matter, we set aside the order of the learned single Judge as affirmed by the Division Bench of the High Court.

Though the award of the Labour Court directing reinstatement of the two employees be implemented within one month from today, but the employees will not be entitled to any back wages for the period they were out of service.

4. It is in pursuance of the same, the petitioners claimed consequential benefit. Initially, when the said claim was rejected, these petitioners had approached this Court in W.P. No. 13437/2008. This Court allowed the said writ petition by order dated 02.04.2012 inter alia observing that:--

A combined reading of the award and the order of the Supreme Court manifestly establishes that the petitioners are entitled for reinstatement, continuity of service and consequential benefits. Therefore, the respondents have to redo the matter keeping in view the award of the Labour Court and the order of the Apex Court.

This Court has held that, the petitioners are entitled for consequential benefits. The Apex Court had only observed that the petitioners are not qualified for promotion to the next higher cadre, except this, it has not modified the award. Once the award granting consequential benefits along with other reliefs has been confirmed by the Apex Court, the management is required to implement the said award, more so, when there is already a direction of this Court. If the petitioners are found eligible and qualified to be promoted, their case may be considered for promotion. If they are not qualified in terms of the Regulations, they may be denied the promotion. However, as far as fixation of pay scale and other benefits are concerned, such fixation has to be granted. Accordingly, I pass the following:--

ORDER

Petitions are allowed. The impugned endorsements dated 29.08.2012 produced at Annexures "N" and "N1" issued by the second respondent are hereby quashed. Respondents are directed to consider the request of the petitioners for consequential benefits in terms of the order passed by this Court in W.R No. 13437/2008 dated 02.04.2012 as early as possible not later than two months from the date of receipt of a copy of this order.