

(2007) 11 KAR CK 0067
In the Karnataka High Court
Case No : Writ Petition No. 22324 of 2005

Rajashekar H.S.

APPELLANT

Vs

State Bank of Mysore and Another

RESPONDENT

Date of Decision : 13-11-2007

Acts Referred:

Citation : (2008) 1 LLJ 948

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : P. Mahesha, for the Appellant; K. Subha Ananthi, for Kasturi Associates, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Petitioner, questing the correctness of the impugned communication issued by the second respondent dated August 24, 2005 vide Annexure-K and further seeking a direction directing the respondents to regularise his service in the post of sub-staff in the respondent-Bank with effect from 1996-97 par with the other candidates vide Annexure-H with back wages and consequential benefits in the interest of justice and equity, has presented this writ petition.

2. The undisputed facts of the case are that earlier, the petitioner had filed Writ Petition No. 45932/1999 seeking direction directing the respondents to consider his request for absorption to give appointment as per the recommendation of the State Bank of Mysore Employees Union as per Annexure-F produced in the said writ petition and direct the respondent to give the appointment to the petitioner equivalent to the job given to one S. Devaraj. The said writ petition came to be disposed of on December 14, 2004 directing the respondents to consider the request of the; petitioner for regularisation of his services in accordance with law and then pass appropriate orders and communicate their decision in writing to the petitioner. In obedience to the directions issued by this Court, the Deputy. General Manager- second respondent herein, has considered the request of the

petitioner and issued the impugned communication by assigning valid, cogent reasons. Being aggrieved by the impugned communication issued by the second respondent, the petitioner herein felt necessitated to present the instant writ petition before this Court seeking appropriate reliefs as stated supra.

3. I have heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for respondents Bank.

4. After careful evaluation of the material available on record including the directions issued by this Court earlier as referred above vide Annexure-J and the impugned communication issued by the second respondent rejecting the request of the petitioner for regularisation of his services as sub-staff in the first respondent Bank, the second respondent vide Annexure-K has recorded the details at Sl. Nos. 1 to 5 by specifically pointing out that the petitioner has worked in several branches in Mysore during the period 1985 to 1997; during July 8, 1994 to August 30, 1995 he has served for 292 days and the State Bank of Mysore Employees Union has recommended him to be employed on permanent basis. The petitioner has given several applications in this regard and he has claimed that he has passed S.S.L.C. and one of his colleagues by name Devaraju has also passed S.S.L.C. and he has been given employment on permanent basis. The second respondent has specifically pointed out and recorded a finding that the petitioner has not been employed in any single branch of the respondent Bank for a period of 240 days in a calendar year and during 1995 he has worked for 207 days in Vidyaranyaapuram Branch and for 85 days in Shivarathreeshwara Nagar Branch of the Bank at Mysore. Therefore, opined that the petitioner has not at all worked for more than 240 days in a calendar year and the contention of the petitioner that he has worked for more than 240 days in a calendar year cannot be accepted. As per the requisite qualification for any appointment in the sub-staff cadre, pass in 8th Standard is compulsory but the candidate should not have passed S.S.L.C. and the petitioner had joined the duty in the year 1985. Therefore, in view of suppression of facts and conduct of the petitioner, it has been recorded that petitioner is disentitled for appointment in the permanent; cadre of sub-staff in the respondent Bank and further it is specifically pointed out that the Bank as a matter of policy had introduced a scheme to reduce its work force. Therefore there is no scope for appointing sub-staff on permanent basis, which would affect the functioning/ policy of the Bank. The said reasons are given rejecting the readiest of the petitioner to regularise his services on permanent basis. With reference to the relevant material available on record, it is significant to note that the petitioner himself has produced the Certificates vide Annexure-B1 wherein it is stated that he has worked as temporary Peon purely on temporary basis during the period from January, 1985 to February, 1985 for a period of 20 days only. Vide Annexure-C, the petitioner has worked from July 8, 1994 to January 31, 1995 for 207 days; from May 1, 1995 to August 30, 1995 for 85 days vide Annexure-C from September 2, 1995 to October 30, 1995 for 59 days vide Annexure-D and further, from February 1. 1996 to April 9, 1996 he has worked for only 54 days

vide Annexure-D and thereafter breaking from month to month. All these certificates issued by the Manager where the petitioner has worked, clearly establishes that at no point of time the petitioner has worked for 240 days in a calendar year commencing from January 1 to December 31 from 1985 to 1997. The, second respondent has rightly considered with reference to the material available on record, the certificates issued by the respective Branch Managers regarding the work rendered by the petitioner. Therefore, the petitioner has failed to make out any good ground as such to consider his request for regularisation of his service on permanent basis in the post of sub-staff in the respondent Bank. The reliance placed by the petitioner on Annexures as referred above, cannot establish that he is entitled for regularisation since his request has rightly been rejected by the second respondent Bank, is not justifiable to be entertained by this Court.

5. Further, the learned Counsel appearing for respondent Bank has placed reliance on the order passed by this Court in Writ Petition No. 1273/2001 disposed of on December 7, 2001 wherein the identical relief sought by the petitioner therein has been rejected by this Court following the judgment of a Division Bench of this Court passed in Writ Appeal Nos. .2539-2543/1987 dated November 15, 1990 by assigning cogent reasons at paragraph-7 of the order and therefore submitted that, following the said order, the instant writ petition filed by the petitioner is liable to be dismissed.

6. After perusal of the order passed by this Court, it is manifestly clear on the face of the order passed by this Court, which is directly applicable to the facts and circumstances of the case on hand. Therefore, I am of the considered view that the petitioner has not produced any authenticated document as such to establish that he has continuously worked for 240 days in a calendar year.

7. For the foregoing reasons, the writ petition filed by the petitioner is dismissed as misconceived.