

(2013) 04 KAR CK 0090
In the Karnataka High Court
Case No : Writ Petition No. 4050 of 2012 (S-K)

Ramamurthy N.

APPELLANT

Vs

The Chief Personnel Manager, The Divisional Controller and
The Depot Manager, Karnataka State Road Transport
Corporation

RESPONDENT

Date of Decision : 01-04-2013

Acts Referred:

Citation : (2013) 04 KAR CK 0090

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : K. Hanumantharayappa, for the Appellant; M.S. Narayan and Smt.
H.R. Renuka, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—Writ petitioner had been selected and appointed as accounts supervisor by the respondent-corporation pursuant to an employment notification and selection on merits as per the appointment order dated 8-10-2010. Writ petitioner had been appointed as a person falling under the category of physically handicapped. At the time of joining service, petitioner had executed an indemnity bond undertaking to serve the corporation for a minimum period of three years and in case petitioner should leave the organization before the expiry of three years, he was to compensated the corporation in a sum of Rs. 50,000/- etc.

2. Petitioner, it appears, after serving for two months and having received a monthly salary of Rs. 3,000/-, was compelled to resign from the job, as he was able to secure the job of a teacher and having found it to be more conducive for his physical condition. Resignation was tendered on 23-11-2010 and the same having been accepted on the same day, the petitioner was relieved with a condition to workout the indemnity bond and the petitioner was asked to deposit a sum of Rs. 50,000/- and the petitioner deposited the amount through a cheque and thereafter his original testimonials which were surrendered with the

respondent were released.

3. Subsequently, petitioner made a request to the respondent-corporation seeking for refund of the amount as per his representations at Annexure-R6 and 7 to the statement of objections. These representations having elicited an endorsement dated 5-1-2012 [copy at Annexure-A to the writ petition] apprising the petitioner that as the petitioner left the job within a period of three years of joining service, he was to compensate the corporation either in a sum of Rs. 50,000/- or salary for six months, whichever is less, and with the petitioner having resigned from his job after two months of joining, it was not possible to refund the amount, as the amount was received for the purpose of accepting his resignation.

4. Aggrieved by this endorsement, the present writ petition seeking for the following relief:

- i) Issue a writ or order in the nature of writ or certiorari quashing the endorsement bearing No. karasa/kk/nemaka R3/1564/11-12 dated 5.1.2012 as contained under Annexure-A;
- ii) Direct the respondents to refund Rs. 50,000/- with interest at 9% p.a. from the date of deposit till date of payment;
- iii) Pass such other order as to cost as this Hon"ble Court deems fit under the facts of this case, in the interest of justice and equity.

5. Notice had been issued to the respondent. Respondents are represented by Sri M.S. Narayan and Ms. H.R. Renuka, Advocates. Statement of objection has also been filed, indicating that in terms of the indemnity bond, the petitioner was required to deposit the amount and the respondent will forfeit the amount, as the petitioner cannot turn around now and ask for refund contrary to the undertaking; that there is no merit in this petition and the petition to be dismissed.

6. Sri K. Hanumantharayappa, learned counsel for petitioner, on the other hand while points out that ever as per the endorsement at Annexure-A, respondents would be entitled for a sum of Rs. 18,000/- i.e. six months salary at the rate of Rs. 3,000/- per month, though the petitioner had worked and received salary only for two months, and the present stand that entire amount of Rs. 50,000/- could not be refunded is clearly contrary to the endorsement etc.

7. A perusal of the endorsement makes it very clear that the maximum amount that can be recovered from the petitioner is Rs. 18,000/- and not more than that and on being confronted with this position, Sri Narayan, learned counsel for respondents, fairly concedes this position, though the stand in the statement of objection is not to the same effect. In this view of the position, this writ petition is disposed of, directing the respondents to refund the balance amount of Rs. 32,000/- to the petitioner within four weeks from the date of receipt of a copy of this order, failing which the amount shall carry interest at the rate of 9% per

annum.