

(1985) 03 KAR CK 0004
In the Karnataka High Court
Case No : Writ Petition No. 4816 of 1979

Ramasiddappa

APPELLANT

Vs

Director of Survey Settlement and Land Records

RESPONDENT

Date of Decision : 26-03-1985

Acts Referred:

Karnataka Civil Services (Recruitment to the Ministerial Posts) Rules, 1978 — Rule 14 (2)

Citation : (1985) ILR (Kar) 4170 : (1985) 2 KarLJ 225

Hon'ble Judges : Doddakale Gowda, J

Bench : Single Bench

Advocate : K.S. Savanur, for the Appellant; S.V. Narasimhan, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

Doddakale Gowda, J.—It is really creditable to notice that petitioner who joined service as Draft brand a non S.S.L.C., in Survey Settlement and Land Records has reached fairly an high rank in ministerial cadre visit Head Clerk. His service particulars as furnished are - (i) promoted as Second Division Clerk on 13-10-1959; (ii) as First Division Clerk on 15-4-1968, and (iii) as Head Clerk on 8-10-1974. Achievement is creditable as he has reached this rank after passing Revenue Higher, Accounts Higher, General Law Parts I and II prescribed as Departmental Tests for these various posts in the Department.

2. As things stood thus, he has been visited with reversion as per order dated 26th April 1979 on the ground that he has not passed Service and Kannada Language Examination, as prescribed in Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974. Though, averments contained in para-3 of the Petition to the effect that he has passed various prescribed examinations remain uncontroverted, Sri S. V. Narasimhan, Learned Counsel for Respondents tried to sustain order of reversion on the ground that a Non S. S. L. C. person is ineligible to hold the post of an Head Clerk, a ministerial post. In

support of his contention, reliance is placed on Rule 3 of the Karnataka State Civil Services (Ministerial Posts) (Minimum Qualification for Recruitment by Promotion) Rules, 1972 and Karnataka Civil Services (Recruitment to the Ministerial Posts) Rules, 1978. No doubt, a Draft brand, with, VIIIth standard qualification and five years experience, is eligible to be promoted as Second Division Clerk and First Division Clerk as per C. & R. Rules of the Department. It is only for direct recruits to the cadre of First Division Clerk, a pass in Intermediate or P. U. C. or an equivalent qualification is necessary, but no minimum qualification is prescribed for promotees except mentioning who are eligible for promotion. Sub-rules (1) and (2) of Rule 3 of Minimum Qualification for Recruitment by promotion Rules states that no Government Servant shall be eligible for promotion to the post of an Assistant or First Division Clerk, Junior Assistant or Second Division Clerk in any State Civil Services unless he has passed S.S.L.C. examination or other equivalent examination notified as such by the State Government. Minimum qualification prescribed will prevail for recruitment by promotion notwithstanding anything contained in Rules of Recruitment and other Rules governing promotion vide Rule 4. These Rules have been repealed by Rule 14 of K. C. S. (Recruitment to Ministerial Posts) Rules of 1978. Sub-rule (2) of Rule 14 of Recruitment to the Ministerial posts Rules, 1978, which reads thus:

"(2) No Government servant shall be eligible for promotion to the posts of Assistants, First Division Clerks, Junior Assistants or Second Division Clerks unless he has passed the Secondary School Leaving Certificate Examination or equivalent qualification."

prohibits promotion of a Non-S.S.L.C. person as Assistant, First Division Clerk, Junior Assistant or Second Division Clerk.

3. Sri Savanur, having due regard to specification of certain category of posts, viz., Assistant, First Division Clerk, Junior Assistant and Second Division Clerk submitted that no minimum qualification is prescribed to hold the post of an Head Clerk hence this Rule is inapplicable so far as it relate to his promotion in 1974 as Head Clerk. But for his promotion as First Division Clerk, in the year 1968, petitioner could not have been promoted as First Division Clerk after promulgation of minimum qualification for Recruitment by Promotion Rules, 1972.

Undisputedly, the post of an Head Clerk is a Ministerial cadre. A person if not eligible to hold the post of a Second Division Clerk/Junior Assistant or Assistant or First Division Clerk after promulgation of minimum qualification Rules cannot equally be eligible to hold an higher ministerial post viz., Head Clerk. Contention of Sri Savanur that though a person ineligible to hold a lower post after promulgation of Minimum qualification Rules and Recruitment Rules of Ministerial posts, there is no bar to hold higher post, if accepted, results in absurdity.

4. Lastly, it is contended that an order of reversion made without providing an opportunity of hearing being opposed to principles of natural justice is illegal and

void. Principles of natural justice cannot be put into a straight jacket. The law as enunciated by the recent decision of the Supreme Court in K.L. Tripathi Vs. State Bank of India and Others, reads thus :

"It is true that all actions against a party which involve penal or adverse consequences must be in accordance with the principles of natural justice but whether any particular principle of natural justice would be applicable to a particular situation or the question whether there has to be judged, in the light of facts and circumstances of each particular case. The basic requirement is that there must be fair play in action and the decision must be arrived at in a just and objective manner with regard to the relevance of the materials and reasons. The rules of natural justice are flexible and cannot be put on any rigid formula. In order to sustain a complaint of violation of principles of natural justice on the ground of absence of opportunity of cross examination, it has to be established that prejudice has been caused to the party concerned by the procedure followed. Neither cross examination nor the opportunity to lead evidence by the delinquent is an integral part of all quasi judicial adjudications."

If on facts that he is only a Non - S.S.L.C. is not disputed, no prejudice is caused by not providing an opportunity of hearing. But for his promotion before promulgation of these Rules, he would not have been eligible for promotion as First Division Clerk. A fortiori, petitioner cannot assert that his reversion from the cadre of an Head Clerk as First Division Clerk is violative of principles of natural justice. Hence, I find no merit. Accordingly, this Writ Petition is dismissed. Rule discharged.