

(2013) 03 KAR CK 0167

In the Karnataka High Court

Case No : Writ Appeal No. 279 of 2012 (S-RES)

Sadashivaiah

APPELLANT

Vs

Karnataka Power Transmission Corporation Limited and
Others

RESPONDENT

Date of Decision : 15-03-2013

Acts Referred:

Citation : (2013) 4 KarLJ 1

Hon'ble Judges : Ravi Malimath, J;K.L. Manjunath, J

Bench : Division Bench

**Advocate : N. Devaraj, for the Appellant; Harikrishna S. Holla, for the
Respondent**

Final Decision : Dismissed

Judgement

Ravi Malimath, J.—Aggrieved by the order dated 9-8-2011, passed by the learned Single Judge in W.P. No. 2222 of 2007, the petitioner has filed the present petition. The case of the appellant was that he was appointed as Meter Reader/Second Division Assistant on 2-7-1971. He was sanctioned additional increment with effect from 1-4-1974 in the pre-revised scale of 1976. On the other hand, the pay of one Sri K.L. Sridhar, who was junior to the petitioner having been appointed on 1-1-1979, was fixed at Rs. 690/- with effect from 1-9-1979 in the pre-revised scale of 1976 in the grade of Rs. 110-250 and the pay of the petitioner was fixed at Rs. 605/- with effect from 1-7-1979.

2. That Sri K.L. Sridhar having obtained the same additional qualification as that of the petitioner, was appointed as a meter reading from 1-9-1979 i.e., after the appointment of the petitioner. This anomaly resulted in the junior drawing a higher salary due to sanction of the increment payable to the petitioner having passed Kannada test. Therefore, the petitioner made a representation seeking to set right the anomalies.

3. The further case of the petitioner is that the erstwhile Karnataka Electricity

Board had issued an order to set right the anomaly, but no action was taken to do so. When similar anomalies arose the State Government had taken active steps, to set right the same. Consequently, the employees of the present Karnataka Power Transmission Corporation Limited had approached the Court in W.P. Nos. 7512 to 7524 of 1980, whereby the authorities were directed to re-examine the matter.

4. Pursuant to the orders, the pay of the petitioner in the cadre of Senior Assistant was fixed as per the order dated 4-12-1999. The pay of the petitioner was fixed at Rs. 11,200/- with effect from 1-4-1998 as Assistant was fixed at Rs. 11,650/- in the higher cadre of Senior Assistant with effect from 30-12-1998 at Rs. 12,000/- with effect from 1-7-1999 and personal pay of Rs. 150/- was sanctioned with effect from 1-7-1999.

5. Thereafter, the pay of the petitioner was revised and refixed in accordance with the Board order dated 6-2-1999. The personal pay benefit granted earlier dated 4-12-1999 was sought to be withdrawn. Aggrieved by the same, the petitioner filed a writ petition in W.P. No. 28670 of 2002, wherein the impugned order was quashed and the pay of the petitioner was refixed and insofar as the direction for stepping up of the pay of the petitioner was concerned, liberty was reserved to him to file a representation with the respondent. On such a representation being made, the same was rejected on the ground that the petitioner's junior, Sri Shridhar had earned two additional increments and if any anomaly arose due to the fixation of pay, there is no provision in the Regulations for stepping up of the pay in cases where the anomaly has arisen due to grant of additional increments prior to revision of scale.

6. The authorities by placing reliance in the judgment in the case of Karnataka Electricity Board Vs. Venkatkrishna, the same was not applicable and that the petitioner having been promoted as a senior assistant with effect from 30-12-1998 would not be applicable to the petitioner. In this background, the petitioner filed the present writ petition. By the impugned order the learned Single Judge dismissed the petition. Hence, the present appeal by the petitioner.

7. The learned Single Judge while considering the contentions advanced was of the view that there is no merit in the petition. That the petitioner acquired the additional qualification on 1-4-1998 and his pay was fixed as per the then accepted pay. The junior acquired additional qualification on 5-3-1978, and had also passed the departmental examination on 21-8-1978. Therefore, his pay was fixed taking into consideration the increment prevailing at that time. Whereas the petitioner had acquired additional qualification on 5-6-1980 much later than the junior, while the junior had passed the degree examination and he has been promoted as Assistant on 24-9-1979.

8. Therefore, as a result, the junior scoring over the petitioner from that date onwards and the difference in cadre between the petitioner who still remained a Junior Assistant and that of his junior who rose to the next cadre of Assistant,

relying on the judgment of the Hon"ble Supreme Court in the case of Union of India and another Vs. R. Swaminathan, the contention of the petitioner was rejected. That the decision as relied upon the case of Venkatakrishna could not be applied. Hence, the Court observed that the junior employee, who had taken his own time to pass the departmental qualifying examination could not be rewarded with higher salary. Under these circumstances, the petition was dismissed.

9. On considering the contentions advanced, we are of the view that there is no error in the impugned order passed by the learned Single Judge that calls for interference. The judgment of the learned Single Judge is in consonance with the facts and circumstances of the case as well as the applicable Law and the judgment has been passed relying upon the judgment of the Hon"ble Supreme Court as stated supra. Under these circumstances, we do not find any error that calls for interference. Consequently, the appeal being devoid of merits is dismissed.