

(2012) 08 KAR CK 0301

In the Karnataka High Court

Case No : Writ Petition No. 26161 of 2010 (S-Kat)

Sri. Mohamed Rafi Pasha. M.A

APPELLANT

Vs

Karnataka Public Service Commission

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0301

Hon'ble Judges : S.N. Satyanarayana, J;N.K. Patil, J

Bench : Division Bench

Advocate : M.K. Shariff, for the Appellant; E.S. Indires, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner, questing the correctness of the order dated 7th July 2010 passed by the Karnataka Administrative Tribunal, Bangalore, in Application No.3100/2007 at Annexure-A, has presented this writ petition. Further, petitioner has sought to quash the impugned order passed by the respondent-Commissioner dated 15/11/2006 at Annexure-M. It is the case of the petitioner that, in pursuance of the notification dated 4.11.2004 issued by the KPSC inviting applications for recruitment to the posts of Gazetted Probationers-2005, he had applied for the said post. Petitioner being not permitted to take up the main examination, has approached the Karnataka Administration Tribunal in Application No.2823/2005 and on the interim order of the Tribunal, he was permitted to appear in the main examination. Thereafter, respondent issued a show cause notice bearing No. RHS:266:05-06:PSC dated 26.4.2006 to the petitioner calling upon him to show cause as to why his candidature should not be cancelled, on the ground that he had highlighted some of the lines in the answer script with a pink coloured ink/highlighter during the examination held on 23.7.2005 in contravention to the instructions given to the candidates. To that, petitioner has submitted his reply on 2.5.2006 denying the said charge and contending that he had not disclosed his roll number, religion, sex or any other

personal details and had merely highlighted some of the important points with pink-ink highlighter which was not with premeditated effort and it in no way revealed his identity to the examiner and consequently, requested to drop the said proceedings. On consideration of his reply, an enquiry was ordered with the appointment of a retired District & Sessions Judge, as the Enquiry Officer by order dated 10.7.2006. After the enquiry, the Enquiry Officer has submitted his report holding that the charge leveled against the petitioner are proved and accordingly, his candidature for the main Gazetted Probationers" Examination-2005 has been cancelled. Being aggrieved by the enquiry report and the consequential order passed by the competent authority, petitioner has approached Karnataka Administrative Tribunal, Bangalore in Application No. 3100/2007.

2. The said application had come up for consideration before the Tribunal, which in turn, after hearing both the parties, perusing the materials available on record and going through the report and also taking the conduct of the petitioner into consideration, has dismissed the same. Being aggrieved by the said order, the petitioner has presented this petition, seeking appropriate reliefs as stated supra.

3. We have heard learned counsel appearing for the petitioner Sri. M.K. Shariff and learned Government Pleader appearing for respondent.

4. After hearing the learned counsel for both the parties and after careful perusal of the impugned order passed by the Tribunal, we do not find any error or illegality, much less material irregularity, as such committed by the Tribunal in dismissing the application filed by the petitioner which has resulted in miscarriage of justice. It is significant to note that, inspite of having specific instructions at the time of examination that the candidates should not disclose his identity, admittedly, the petitioner has high lighted some of the important points with pink ink/ highlighter and the same has been rightly taken into consideration by the authority and after affording opportunity to the petitioner by issuing show cause notice. The authority on considering the reply submitted by the petitioner and on the basis of the enquiry report submitted by the Enquiry Officer being a Retire District and Sessions Judge, the petitioner was debarred from appearing for the main examination of 2005 only. The said penalty imposed by the concerned authority against the petitioner is just and reasonable. The Tribunal taking all these aspects into consideration and after assigning valid reasons in paras-10 and 11 of its order, has dismissed the application filed by the petitioner. The reasoning assigned by the Tribunal is just and proper and therefore, we do not find any justification or good grounds as such made out by the petitioner to interfere with the same. Hence, the writ petition filed by the petitioner is dismissed as devoid of merits.

Learned Government Pleader is permitted to file memo of appearance for respondents, within two weeks from today. Ordered accordingly.