

(2013) 07 KAR CK 0261

In the Karnataka High Court

Case No : Writ Petition No. 11950 of 2013 S-KAT

Sri Venkatachalapathi

APPELLANT

Vs

The Deputy Director for Public Instruction and The Block
Education Officer

RESPONDENT

Date of Decision : 11-07-2013

Acts Referred:

Citation : (2013) 07 KAR CK 0261

Hon'ble Judges : D.V. Shylendra Kumar, J;B.S. Indrakala, J

Bench : Division Bench

Advocate : K. Srinivasa, for the Appellant; S. Susheela, AGA, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ petitioner is a person who had aspired for the post of Primary School Teacher for which applications had been invited by the Deputy Director of Public Instructions, Kolar District, Kolar, in the year 1999 as per Notification dated 15.02.1999. Petitioner who had applied for the post having requisite qualification, it appears had also sought the benefit of service weightage after having served as Honorary Teacher for four years in a Government Primary School at Gottahalli, Kolar Taluk and District. It transpires that the petitioner was not given the benefit of Honorary Service as it was found that his claim for such service was not properly supported and ultimately the petitioner was not selected for the post in question.

2. Being aggrieved, the writ petitioner had approached the Tribunal by filing Application No. 3296/1999. It is the case of the petitioner that in the interregnum, some other persons had approached the Tribunal, who were similarly situated and who had been denied of service weightage and the Tribunal had allowed such applications and such persons had been subsequently appointed.

3. It is also the case of the petitioner that as to whether petitioner who had

rendered temporary Honorary service as it had not been given to him on the premise that certificate had not been countersigned by the proper officials, had represented to the authorities and the Block Education Officer, Kolar Taluk, Kolar, had conducted detailed enquiry in this regard and had submitted a report recognizing the case of the petitioner for granting service weightage on the premise that he had in fact served in a Government Primary Rural School for four years etc.

4. It is the case of the petitioner that though such material was sought to be placed before the Tribunal, the Tribunal did not look into such developments, but on the other hand, dismissed the application of the petitioner making wrong and incorrect observations and being of the opinion that the applicant had not submitted requisite certificates duly counter signed by the second respondent in this writ petition.

5. The Tribunal also noticed that, on the other hand, the applicant was trying to pass off some certificates as genuine and certain letters issued were not necessarily genuine etc. Against the order of dismissal dated 28.06.2005, it appears the writ petitioner had filed review application No. 251/2005 seeking to review the order dated 28.06.2005. The review application came to be rejected on 1.2.2006. Petitioner yet again filed another application No. 1342/2007 before the Tribunal at Bangalore seeking for direction to select him to the post. Obviously, this was resisted and the respondents had pointed out dismissal of the earlier application. It is the case of the petitioner that the applicant nevertheless, had filed rejoinder with some additional documents to support his claim, but realizing that the second application would not be tenable, the petitioner withdrew the subsequent application No. 1342/2007 with liberty to challenge the order passed in Application No. 3296/1999 wherein the Tribunal had according to him without proper consideration of the entire material, rejected the application and in the light of such developments, the Tribunal dismissed second application No. 1342/2007 as withdrawn as per its order dated 28.06.2012.

6. The present writ petition is filed on 6.3.2013 questioning the order dated 28.06.2005 passed by the Tribunal in Application No. 3296/1999.

7. Sri. Srinivasa, learned counsel for petitioner would urge several contentions, to submit that the writ petitioner has been unjustly denied legitimate employment to which he is otherwise eligible; that with addition of marks from service weightage, he should have been placed much higher than the last person in the merit list and would have been selected to the post; that the Tribunal without looking into the subsequent report of the Deputy Director of Public Instructions that the petitioner had even served for four years in the Government Rural Primary School, had rejected the application; that it has resulted in gross injustice to the petitioner by denying the employment to which he was otherwise eligible etc.

8. In this regard, Sri. Srinivasa would like to draw our attention to the report of

the Deputy Director of Public Instructions that he has in fact worked as Honorary Teacher and therefore he can be considered for granting service weightage marks for the purpose of selection etc.

9. On the other hand, Smt. S. Susheela, learned Additional Government Advocate appearing for the respondent, submits that the Tribunal itself had noticed that even assuming that the benefit is given, petitioner would not make the grade for being selected during the period; that the addition of marks would not take to the level of cut off percentage of marks of selected candidates and that apart, the Tribunal had observed that the document sought to be relied upon were not very dependable and on the other hand, the Tribunal has opined that the applicant was abusing his right to seek job by producing incorrect and fabricated documents. It is pointed out that even review application also came to be dismissed where the petitioner was placing reliance on certain materials etc.

10. We notice that in a matter of this nature where the writ petitioner had filed an application in the year 1999, it cannot be continued endlessly before courts and this writ petition questioning the order of the Tribunal dated 28.06.2005 is definitely hit by delay and laches. The Tribunal also observed that the material sought to be relied upon was not very cogent and on the other hand was suspect. Though learned counsel for petitioner has sought to rely upon subsequent report of the Deputy Director of Public Instructions etc., we are not very impressed to look into all these materials at this point of time in respect of selection to the post of Teachers for which efforts began long ago. Time does not stand still for anyone and if the petitioner was not able to make good his case before the Tribunal for so many years inspite of review petition and on the other hand tried his hand by filing second application, we definitely cannot appreciate such conduct of the writ petitioner. If the petitioner was pursuing wrong remedies, he cannot blame others for it and at any rate cannot take advantage to seek public employment. We do not find any justification to interfere with the order of the Tribunal at this point of time.

11. At this point of time, Sri. Srinivasa, learned counsel for petitioner would submit that the respondents may at least be directed to consider service weightage for future employment.

12. It is not for this court to embark upon the issue and if the respondents themselves recognize any such case subsequently, it is for them to act on the same and it is not for this court to issue directions in a matter where this court is not definite of the facts. Therefore, this writ petition is dismissed.