

(2017) 02 KAR CK 0101

In the Karnataka High Court

Case No : Writ Petition No. 200606 of 2016 (S-DIS)

Sri. Vijay Kumar Basanna Ghalli

APPELLANT

Vs

Chief Administrative Officer Dist. and Sessions Court,
Kalaburagi

RESPONDENT

Date of Decision : 09-02-2017

Acts Referred:

Constitution of India, 1950 — Article 309, Article 311
Karnataka Civil Services (Probation) Rules, 1977 — Rule 6

Citation : (2017) 2 AirKarR 264

Hon'ble Judges : Rathnakala, J.

Bench : Single Bench

Advocate : Sri Shivasharana Reddy, Advocate, for the Petitioner; Smt. Archana P. Tiwari, AGA, for the Respondent

Final Decision : Dismissed

Judgement

Rathnakala, J.—The order at Annexure-A whereby the petitioner was removed from the post of Peon by the District and Sessions Court, Kalaburagi is called in question.

2. Admitted facts are the first respondent called for the post of Peons at Annexure-A. The petitioner was selected under the category of 2-A (Rural) and was posted to the Court of Civil Judge and JMFC, Chittapur and he joined the duty on 09.10.2015. He was issued with show cause notice at Annexure-C calling upon his explanation about unauthorized absence from the evening of 15.10.2015 to 17.10.2015. The petitioner gave his reply as per Annexure-D contending that due to ill-health of his father, he left the head quarters. Subsequently, show cause notice was issued as per Annexure-E with allegations in addition to the allegation of unauthorized absence. The petitioner in his reply at Annexure-F extended unconditional apology. The additional allegation was about not submitting the Medical Certificate, Character Certificate in the prescribed format and the Caste Certificate furnished was time barred and

despite the direction, he had failed to submit the said document though he had undertaken to furnish the same. Later vide order at Annexure-G dated 30.11.2015, he was discharged from service on the ground of unsuitability.

3. Sri Shivasharana Reddy, learned counsel for the petitioner submits that the petitioner is hailing from rural area and due to sudden ill-health of his father, had to leave the head quarters without informing the Chief Administrative Officer of the Court. As per the undertaking given by him, subsequently he produced the original documents in the prescribed format before the Chief Administrative Officer. The order at Annexure-F being stigmatic will mar his future career. He has also given unconditional apology and the same may be accepted and he may be taken on duty by quashing the order at Annexure-E. Learned counsel placed reliance on the judgment of this Court in the case of Kittur Muthappa Hanumanthappa v. Secretary to Government of Karnataka, Law Department (Administration), Bangalore reported in 1997 SCC Online KAR 235.

4. In reply, Smt. Archana P. Tiwari, learned Additional Government Advocate submits that the petitioner while seeking to sustain the order at Annexure-E had given two versions about his absence in his reply. Once he putforth illness of his uncle, but later changed his version that his father was ill. He misbehaved with one of his colleague and without informing the same to the Chief Administrative Officer of the Court he went to the extent of lodging a compliant against his colleague to the police. The reply given by him to the show cause notice is considered by the Appointing Authority. He was found to be indulged in consuming alcohol during duty hours, picking up quarrel with the colleagues, not submitted the testimonials as undertaken by him immediately after joining the duty. The order, which is challenged is not stigmatic and will not come in the way of his future career. During the period of probation, his services having been found unsuitable, he was discharged from service and the same is confirmed by the Hon"ble High Court of Karnataka. Hence, the order at Annexure-E does not call for any reconsideration.

5. In the light of the above, it emerges that the petitioner was discharged from service during the period of his probation on the ground of unsuitability. The order under consideration is passed under Rule 6 of Karnataka Civil Services (Probation) Rules, 1977, which reads thus:

"6. Discharge of a probationer during the period of probation:- (1) Notwithstanding anything in Rule 5, the Appointing Authority may, at any time during the period of probation, discharge from service a probationer on grounds arising out of the conditions, if any, imposed by the rules or in the order of appointment, or on account of his unsuitability for the service or post; but the order of discharge except when passed by the Government, shall not be given effect to, till it has been submitted to and confirmed by the next higher authority. "

6. Thus an appointee can be discharged from service at any time during the period of probation among others on the ground of unsuitability for the service.

The Disciplinary Authority on tangible material has found petitioner unsuitable. That being so, there is no valid reason to exercise the writ jurisdiction of this Court over the order of discharge.

7. Hence, the petition is dismissed. However, if an application is filed by the petitioner before the first respondent for return of his original documents, which were produced at the time of joining the service, the same shall be returned forthwith.

8. In view of disposal of writ petition, I.A. 1/2016 filed for early hearing does not survive for consideration and the same is rejected.