

(2014) 02 KAR CK 0271

In the Karnataka High Court

Case No : Writ Petition No. 17821 of 2007 (S-PRO)

Srihari Dashrath Rao

APPELLANT

Vs

Gulbarga University

RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Citation : (2014) 2 AKR 114 : (2014) 2 KCCR 1687

Hon'ble Judges : Mohan M. Shantanagoudar, J

Bench : Single Bench

Advocate : Sachin M. Mahajan, for the Appellant; Deepak V. Barad for Sri. Veersh B. Patil, for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantanagoudar, J.—Petitioner has sought for promotion to the post of Assistant Office Superintendent with retrospective effect i.e., w.e.f. 9.3.1989. The records reveal that the petitioner and similarly placed employees who are working as FDAs were promoted to the posts of Assistant Office Superintendents on 9.3.1989. However the University having come to know that the petitioner and similarly placed persons are not eligible for promotion w.e.f. 9.3.1989, withdrew the order of promotion given in favour of the petitioner and similarly placed persons. Subsequently, they were accorded promotion w.e.f. 31.3.1992 to the posts of Assistant Office Superintendents. Since then, the petitioner and others have been working as Assistant Office Superintendents.

However one Mr. Baburao Hosamane approached this Court by filing writ petition seeking promotion w.e.f. 9.3.1989. The said writ petition was allowed and thereafter contempt petition was filed and ultimately Baburao Hosamane was given promotion to the post of Assistant Office Superintendent w.e.f. 9.3.1989. Relying upon such order of promotion given to Baburao Hosamane, the petitioner made representations before the respondent-University on 10/19.8.2006 and 15.12.2006 as per Annexures-D and E with a prayer to promote him also the post of Assistant Office Superintendent with retrospective effect from 9.3.1989.

Such representations were not considered initially and therefore petitioner approached this Court in Writ Petition No. 1388/2007 which came to be disposed of on 31.1.2007 with a direction to the respondent-University to consider the representations of the petitioner. The University after considering the representations has passed the impugned order Annexure-G dated 17.9.2007.

2. Sri. Sachin M. Mahajan, learned counsel for the petitioner submits that petitioner's case should have been allowed by the respondent as per the case of Baburao Hosamane on the ground of parity; since Baburao Hosamane is accorded promotion to the post of Assistant Office Superintendent w.e.f. 9.3.1989, the same benefit should be accorded to the petitioner.

The said submission is opposed by the learned advocate appearing for the respondent by contending that the petitioner's case is entirely different from Baburao Hosamane; Baburao Hosamane approached the Court in the year 1989 itself and ultimately got the relief in the year 1991-92; the petitioner has opened his eyes only after 14 years and therefore he is not entitled for any relief.

Nothing is produced on record to show that the petitioner's case is similar to the case of Baburao Hosamane who is accorded promotion w.e.f. 9.3.1989. However the petitioner claims that he should be promoted w.e.f. 9.3.1989 on par with Baburao Hosamane. Unless the case of the petitioner is similar to that of Baburao Hosamane, the petitioner cannot get the same benefit.

Be that as it may, the petitioner has opened his eyes only after long lapse of time. Admittedly, the petitioner was promoted to the post of Assistant Office Superintendent w.e.f. 31.3.1992. He worked in the said post till 2006. Only in the year 2006, he started making representation. Thus it is clear that the petitioner has kept quiet for very long time. In that view of the matter, the respondent-University is justified in observing that the case of the petitioner cannot be considered after long lapse of time, more particularly when there is cascading effect, in case, if the petitioner's case is considered for promotion. The case which is already settled cannot be allowed to unsettle. In view of the same, this Court declines to entertain this petition.

Petition fails and the same stands dismissed.