

(1994) 02 SC CK 0054

In the Supreme Court Of India

Case No : Civil Appeal No"s. 5326-27 of 1983 and 1114-21 of 1985, W.P. (C) No"s. 8442-43 of 1983 and S.L.P. (C) No"s. 226-29 of 1988 etc. etc.

Srinivasa Rao and others

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 24-02-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka General Services (Revenue Subordinate Branch) Village Accountants (Cadre and Recruitment) (Amendment) Rules, 1970 — Rule 1
Karnataka General Services (Revenue Subordinate

Citation : AIR 1995 SC 722 : (1996) 9 SCC 616

Hon'ble Judges : Yogeshwar Dayal, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. The appellants were working as Hereditary Village Accountants in Gulbarga District of the State of Karnataka. As a consequence of the coming into force of the Mysore Village Offices Abolition Act, 1961, the office of the hereditary accountant was abolished. The appellants were, however, permitted to continue in their respective offices till the time fresh appointments were made to the posts of Village Accountants. Thereafter, fresh recruitment was made but the appellants were not selected. The appellants challenged the fresh selection by way of writ petitions under Article 226 of the Constitution of India before the Karnataka High Court. A learned single Judge of the High Court dismissed the writ petitions. Writ Appeals 1864-65/80 arising out of W.P. Nos. 5034/77 and 5615/77 were heard by a Division Bench of the Karnataka High Court and the Bench by its Judgment dt. Nov. 21, 1980 dismissed the writ appeals on the following reasoning:

In these appeals, the only contention urged by Sri B. G. Sridharan, learned Counsel for the appellants-petitioners, was that under the proviso to Rule 10 of the Karnataka General Services (Revenue Subordinate Branch) Village

Accountants (Cadre and Recruitment) Rules, 1961 (hereinafter referred to as the Rules), the petitioners were entitled to be appointed afresh as Village Accountants without hereditary rights. The learned single Judge rejected that contention, holding that a similar contention had been repelled by a Division Bench of this Court in *V.N. Chowdiah v. The Deputy Commissioner*, (1973) 1 Mys LJ 242.

However, Sri Sridharan submitted that after the Village Offices Abolition Act came into force, the Deputy Commissioner called for applications for the posts of Village Accountants on 25-5-1962 and 6-7-1962, that sufficient number of candidates were not available for being recruited as Village Accountants and that therefore the petitioners, became entitled to be appointed as Village Accountants under the proviso to Rule 10 of the Rules.

In Chowdiah's case, this Court pointed out that if after two successive advertisements calling for applications for the posts of Village Accountants, sufficient number of suitable candidates are not available, then erstwhile Hereditary Village Accountants who have been continued in service under Sub-section (2) of Section 16 of the Karnataka Land Revenue Act, become only entitled to be Considered for appointment if they fulfill certain conditions of eligibility and they have no right to be appointed. In other words, only such of those who are found suitable may be appointed. Even if the petitioners could claim the benefit of proviso to Rule 10, they should have done so within a reasonable time and if the authorities had rejected such claim, they should have approached this Court within a reasonable time thereafter. But they approached this Court for the first time in the year 1972 by filing writ petitions. In the meanwhile, the rules were replaced by the Karnataka General Services (Revenue Subordinate Branch) Village Accountants (Cadre and Recruitment) Rules, 1970 which do not contain provision similar to the proviso to Rule 10 of the earlier rules. The authorities selected in the year 1972 party respondents for the posts of Village Accountants under the later rules.

Sri Sridharan maintained that even before the later Rules came into force, the right under proviso to Rule 10 of the earlier Rules had accrued to the appellants-petitioners and that therefore the coming into force of the later Rules did not take away such right. Assuming for the sake of arguments that the above contention of Sri Sridharan is well-founded, the appellants-petitioners did not approach this Court within a reasonable time after their claim under the proviso to Rule 10 had not been conceded. On account of such delay, the right of party respondents who have been appointed to the posts of Village Accountants, have intervened. Hence, we do not see any good ground to dissent from the decision of the learned single Judge.

In the result, we dismiss these appeals without admitting it.

Sd/- (D. M. Chandrasekhar) Chief Justice Sd/- (N. Venkatachala) Judge 2. We have heard learned Counsel for the parties. We see no ground to differ with the

reasoning and the conclusions reached by the Division Bench of the High Court. The appeals are dismissed. No costs.

W.P.(C) 8442-43/83 3. These writ petitions are to be dismissed in view of our order in C.A. Nos. 5326-27/83 and other connected matters. The petitioners were aged 53 and 48 in the year 1983 when these writ petitions were filed. They may have even otherwise retired from service. The writ petitions are dismissed.

SLP(C) Nos. 226-29/88 and 5932-41/87 4. Mr. Ranjit Kumar, learned Counsel for the petitioners states that his clients have not been paid the salary for the period for which they actually worked as Accountants. It will be open to the petitioners to represent before State of Karnataka or to avail any other remedy available to them under law. Special leave petitions are dismissed.

SLP(C) Nos. 11396-97/88 5. Special leave petitions are dismissed.