

(2015) 01 KAR CK 0555

In the Karnataka High Court

Case No : Writ Appeal Nos. 5571 and 6450-6500/2013 (S-RES)

State of Karnataka and Others

APPELLANT

Vs

M.C. Seenaiiah and Others

RESPONDENT

Date of Decision : 07-01-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25(f)

Citation : (2015) 01 KAR CK 0555

Hon'ble Judges : K.L. Manjunath, J;S. Sujatha, J

Bench : Division Bench

Advocate : D. Nagaraj, A.G.A., for the Appellant; S. Mahesh, Advocates for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.

1. These appeals are preferred by the State of Karnataka challenging the legality and correctness of the order passed in Writ Petition Nos. 28000/03 and other connected petitions dated 22.03.2012.
2. Heard the Government Advocate and Sri Subba Rao, learned Sr. counsel appearing for some of the respondents and the learned counsel appearing for other respondents.
3. Writ petitions were filed by MC Seenaiiah and others to quash the order of the State of Karnataka dated 24.02.2003 by issuing writ of certiorari and to direct the State of Karnataka to absorb the petitioners in Government services/councils in the respective Department where the petitioners were working on the date of filing the writ petitions.
4. According to the petitioners, earlier, they were all working in Mysore Acetate Chemicals Limited, Mandya which is a public sector undertaking and the State of Karnataka is having 82% share and similarly, some of the petitioners were

working in Mysore Lamps Limited. On account of the closure of these factories, petitioners were posted to different departments of the State Government on account of the order of transfer. Due to closure of certain public sector undertakings, the Government of Karnataka constituted High Power Committee in respect of disinvestment or closure was being worked out. The committee by its recommendation dated 03.08.2002 made certain suggestions as to how the employees of the public sector undertaking are to be accommodated by the respondents. Accordingly, the petitioners on the basis of deputation are working in Government Departments/Municipal Council. However, they were denied the benefit of absorption. Therefore, the writ petitions came to be filed. Learned Single Judge having examined the matter came to the conclusion that these writ petitioners were working in public sector undertakings of the State of Karnataka and they were all transferred on deputation to different Government Departments and subsequently, their parent factories were closed on account of loss suffered by them. When the writ petitioners were not sent on deputation, they were also permitted to avail voluntary retirement scheme or to accept the closure compensation and certain employees who were working as employees of public sector undertakings/boards/corporations were also absorbed subject to certain conditions. Since, such a benefit was denied to the writ petitioners, they approached the Court with a request to absorb them in different Government Departments by giving earlier service benefits.

5. Learned Single Judge allowed the writ petitions and directed the State of Karnataka to absorb them in different Government Department and Municipal Councils in accordance with law.

6. Aggrieved by the same, the present appeals are filed.

7. Learned Government Advocate submits that the learned Single Judge has committed an error in issuing such a direction. When the public sector undertakings were closed by the Government on account of the loss sustained by it and employees of such public sector undertakings cannot be absorbed either in the Government department or in municipalities or corporations or boards, according to him on account of the closure of the factories, at best the employees of such public sector undertakings can claim closure compensation by invoking Section 25(f) of the Industrial Disputes Act or to avail the voluntary retirement scheme evolved by the State Government. In the circumstances, he requests this Court to set-aside the order of the learned Single Judge by allowing the appeals.

8. Per contra, learned counsel appearing for the respondents submit that the Government has already passed an order to absorb certain employees who were also transferred and working on deputation in different Corporations/Municipalities and Government Departments and having absorbed certain employees who are similarly situated with that of the respondents, such benefits cannot be denied to the respondents as it amounts to hostile discrimination between two different categories of employees who were also altogether working

under the public sector undertaking. Counsel for the respondent further submits that when the Government has given benefits to other employees, such benefits cannot be denied to the respondents. Therefore, they request the Court to dismiss the appeal.

9. Having heard learned counsel for the parties what is to be considered by this Court in these appeals is, "Whether the learned Single Judge has committed an error in issuing the direction to absorb the writ petitioners?"

10. So far as this point is concerned, the Government Advocate is unable to dispute the stand taken by the respondent that in regard to similar other employees who are similarly situated with that of the respondents, benefit of absorption has already been given. When some of the employees are absorbed, the Government cannot contend that such benefit cannot be extended to the writ petitioners and there is no rationality in the contentions of the State Government. The State Government cannot have different yard stick to different persons who are similarly placed. In such circumstances, if benefits are given to writ petitioners, this Court cannot find fault with the order of the learned Single Judge.

11. At this stage learned counsel appearing for Mysore Lamps submits some of the employees of Mysore Lamps have availed voluntary retirement benefit scheme and Mysore Lamps has already settled the dues payable to them. If that is so, such employees are not entitled for claim of absorption.

12. With the above said observations, these writ appeals are dismissed.