

(2009) 07 KAR CK 0069
In the Karnataka High Court
Case No : Writ Appeal No. 5126 of 2008

State of Karnataka and Others

APPELLANT

Vs

Shankara Gouda

RESPONDENT

Date of Decision : 03-07-2009

Acts Referred:

Karnataka High Court Act, 1961 — Section 4

Citation : (2011) 2 KCCR 959

Hon'ble Judges : K.N. Keshavanarayana, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : K.B. Adhyapak, Additional Government Advocate, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Appeal by the State Government, who though formulated a scheme for felicitating the persons who had participated in the freedom struggle and such persons were to be given pension during the rest of their life and having conferred such a pension on the Respondent in the year 1992, nevertheless unceremoniously without any opportunity cancelled the same on 17.03.2007, which order was successfully challenged by the person, (who had the benefit of pension till 2007), before the learned Single Judge questioning the order passed by the State Government whereby the petition was allowed. Questioning the order passed by the learned Single Judge, the present appeal by the State.

2. The matter though has come up for orders regarding non-compliance and defective presentation nevertheless is looked into the merits of the appeal and Sri Adhyapak, learned Additional Government Advocate seeks some time to comply with the office objections and make presentation of the appeal proper and there is also a delay of 211 days in preferring this appeal and an application is filed, seeking condonation of delay along with two more applications, one for dispensation of typed copy of some annexures and yet another application for stay.

3. We have nevertheless examined the merits of the matter and being convinced that the matter does not warrant interference in the appellate jurisdiction u/s 4 of the Karnataka High Court Act, are dismissing the appeal and all the applications is as under:

4. The learned Single Judge interfered with the order of the State Government cancelling pension on two grounds, firstly, that the writ Petitioner had not been given proper opportunity before cancelling the pension which was conferred in the year 1992, which he was drawing for considerable length of time i.e. is up to the year 2007. Secondly, under the impugned order, the learned Single Judge noticed that cancelling the pension was based on the report by the Tahsildar of the area, indicating that the person was a minor at the time of the independence and therefore, presumed that he could not have participated in the freedom movement.

5. It is for the illogical manner in which the order has been passed and that too a conclusion based on the Tahsildar's report, who it appears had given the report based on the complaint made by some adverse persons. The learned Single Judge found it fit to be quashed.

6. We are of the opinion that the learned Single Judge is fully justified with passing the order under appeal and quashing the order of cancellation of pension.

7. It is rather ironic that in the name of providing facilities and honouring persons who had participated in freedom struggle, such orders without due application of mind and without any rhyme or reason are being passed, which has only resulted in harassment of such freedom fighters and it is a rather deplorable action. The State Government, if they want to extend the facilities and honour the freedom fighters that should be done in a dignified manner and such elderly people without any self interest who had participated in the freedom movement and contributed their life for freedom of the country should be properly respected and not subjected to harassment at the hands of the present day beauracrats.

8. The scheme either should be continued and implemented with proper care and due respect to such freedom fighters or if the State Government finds, it is riot possible should disband the scheme.

9. We do not think it proper to issue notice to the Respondent to defend the order passed by the learned Single Judge.

10. Therefore, the appeal and all applications are dismissed.