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(2015) 11 KAR CK 0197

In the Karnataka High Court

Case No : Writ Petition No. 26105/2015 (S-KAT)

The State of Karnataka and Others — APPELLANT

Vs

Gayathri S. — RESPONDENT

Date of Decision : 07-11-2015

Acts Referred:

Citation : (2015) 11 KAR CK 0197

Hon'ble Judges : Mohan M. Shantana Goudar and B. Veerappa, JJ.

Bench : Division Bench

Advocate : H.B. Mahesh, HCGP, for the Appellant

Final Decision : Dismissed

Judgement

Mohan M. Shantana Goudar, J.—The order dated 5.9.2009 passed by the Karnataka Administrative Tribunal, Bangalore in Application No. 4909/2013, is called in question in this writ petition.

By the impugned order, the Karnataka Administrative Tribunal directed the petitioners herein to grant the additional increment to the respondent from the date of her initial appointment as she was qualified for grant of exemption from passing Kannada language examination. Other consequential reliefs are also granted.

2. Records reveal that the respondent was appointed as Typist-Copyist on 3.9.1975. She was promoted as First Division Assistant on 24.4.1986. From 3.9.1975 till 24.4.1986, the respondent was not granted additional increment as per Rule 6 of the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974 (for short ''the 1974 Rules''). Only when she was promoted in the year 1986 as First Division Assistant, the respondent was sanctioned additional increment under Rule 6 of the 1974 Rules in the cadre of First Division Assistant i.e., 24.4.1986. The respondent submitted her representation quoting the Circular dated 3.11.2000 which extended the benefit of an additional increment to those who have passed or deemed to have passed

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Kannada language examination where no Departmental Examinations had been prescribed (since such candidates would have passed SSLC in Kannada medium), sought for sanction of additional increment w.e.f. 3.9.1975, i.e., from the date of her initial appointment as Typist-Copyist. The said representation came to be rejected by the petitioners on the ground that she had been already sanctioned the additional increment and as additional increment had to be granted only once in the entire service career, her request was rejected.

Though it was made clear by the respondent that she was not seeking additional increment for the second time and though she had clarified that she has merely sought for preponement of the date from which she ought to have been sanctioned additional increment, such prayer was rejected by the petitioners. Hence, the respondent approached the Karnataka Administrative Tribunal in Application No. 4909/2013, which came to be allowed by the impugned order.

3. We do not find any ground to interfere with the impugned order. Rule 6 of the 1974 Rules makes it amply clear that every Government Servant who has passed, who passes or who is deemed to have passed the Kannada language examination and the prescribed examinations, if any, shall without prejudice to his/her right to get the normal increments be entitled to one additional increment. Rule 6 of the 1974 Rules which provided for sanction of additional increment, remained in force till it was omitted by the Notification 27.7.1987. Thus, the 1974 Rules which were notified on 8.1.1974 held the field till 27.7.1987. Since the respondent was appointed as Typist-Copyist on 3.9.1975, she was governed by Rule 6 of the 1974 Rules. Consequently, she is entitled to get the benefit as contemplated under Rule 6 of the 1974 Rules.

4. Subsequently, the Government has issued the Circular dated 3.11.2000 under which the Government has decided to grant one additional increment to all such Government servants holding posts for which service examinations are not prescribed under the 1974 Rules, but who have passed or are exempted from passing Kannada language examination which is compulsorily to be passed by Government servants holding such posts.

5. There cannot be any dispute that one additional increment was sanctioned in favour of the respondent w.e.f. 24.4.1986 on which date, she was promoted as First Division Assistant from the post of Typist-Copyist. But, she was not sanctioned the additional increment w.e.f. 3.9.1975 on which date she was appointed as Typist-Copyist. Thus, the date of sanction of one additional increment in favour of the respondent is to be preponed from 24.4.1986 to 3.9.1975, inasmuch as the respondent was entitled to get the benefit of additional increment under the 1974 Rules.

The Tribunal has assigned valid reasons while coming to the conclusion and passed the considered order. The reasons assigned and the conclusion arrived at by the Tribunal are just and proper. Since the respondent is entitled to get the benefit of Rule 6 of the 1974 Rules, she ought to have been sanctioned additional

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increment from 3.9.1975 and not from 24.4.1986.

6. Merely because the respondent had not filed application for grant of additional increment prior to 1986, it is not open for the State Government to contend that the respondent is not entitled to get additional increment from the date of her initial appointment. It is not in dispute that the respondent had passed SSLC in Kannada medium. Therefore, she was exempted from taking Kannada language examination while she was appointed as Typist-Copyist in the year 1975. If it is so, the State Government fairly ought to have suo moto granted additional increment in favour of the respondent from the date of her initial appointment as Typist/Copyist in the year 1975. It is not open for the State Government to take the benefit of its own fault of not sanctioning additional increment with effect from the date of her initial appointment inasmuch as on the date of her initial appointment itself, the respondent was entitled to additional increment under Rule 6 of the 1974 Rules.

In this view of the matter, the Tribunal has rightly concluded that the respondent is entitled for the grant of additional increment w.e.f. 3.9.1975. Other consequential reliefs are also rightly granted in favour of the respondent.

Hence, no interference is called for. Accordingly, the writ petition fails and the same stands dismissed.

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