
(2013) 12 KAR CK 0351
In the Karnataka High Court
Case No : Writ Petition No. 4077 of 2012 (S-CAT)

Thomas C.C.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0351

Hon'ble Judges : Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : Abhinay Y.T., for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantanagoudar, J.—The order of the Central Administrative Tribunal, dated 30.12.2011 passed in O.A. No. 49/2011, is called in question in this writ petition. The records reveal that the petitioner who was working as Chief Law Assistant in the pay scale of 7450-11500 in South Railways Zone, a new Railway zone was carved out along with six other Zones. The petitioner was shifted to the new Zone viz., South Western Railway Zone carved out in the year 2003 having head quarters at Hubli. Therefore, the petitioner being the Chief Law Assistant was working in the headquarters of South Western Railway at Hubli from 2003 onwards. Since there was vacancy of Assistant Law Officer available, notification came to be issued by the South Western Railway Zone for filling up of the post of Assistant Law Officer. The petitioner also participated in the selection process and he was selected as Assistant Law Officer (in Group-B post) on 27.12.2005 in the pay scale of Rs. 7500-12000. He attained the age of superannuation on 30.4.2008. In the meanwhile, the Ministry of Railways (Railway Board) issued a notification on 9.3.2006 for restructuring gazetted cadre of Indian Railways for new Zones and new Divisions, more particularly in respect of the Legal Department. Because of such restructuring of gazetted cadre, the post of Assistant Law Officer held by the petitioner was redesignated as post of Law Officer (Group-B), i.e., cadre having the same pay scale of Rs. 7500-12000.

Thus, the petitioner continued with same pay scale of Rs. 7500-12000, however with a new designation of Law Officer. According to the petitioner higher responsibility is to be discharged by the Law Officer than the Assistant Law Officer; Since he has discharged the duties as Law Officer from 4.2.2006, the date on which the post of the Assistant Law Officer is redesignated as Law Officer, he should have been given the higher pay scale attached to the Law Officer. It is further case of the petitioner that the Department has entrusted all the works which were required to be done by the Law Officer to the petitioner and therefore he is entitled to the same pay scale as that of the Law Officer, which is being drawn by other Law Officers, who are working in the old Zones/ Divisions. Since such request of the petitioner was not acceded to by the Department, he approached the Appellate Authority which also negated the prayer of the petitioner. Thus, he approached the Central Administrative Tribunal by filing O.A. No. 49/2011, which also came to be dismissed by the impugned order dated 30.12.2011.

2. The petitioner, reiterating the aforementioned contentions, submits that it is not open for the Department to change the designation of the Assistant Law Officer into Law-Officer; since his designation is changed as Law Officer from the Assistant Law Officer and as he was compelled to discharge the work of Law Officer as was being performed by the Law Officers in old Zones/Divisions, he is entitled to the same pay scale as that of the Law Officer. According to him, the Law Officers who discharged similar duties as that of the petitioner in old Zones/ Divisions are drawing higher salary than the petitioner and therefore there is violation of principles of equality.

The aforementioned contention is opposed by the respondents by filing the statement of objections. The contention of the respondents is that merely because the Assistant Law Officer's designation is redesignated as Law Officer in the year 2006, the petitioner cannot take benefit of the same. Respondents further submitted that the seniority list maintained in each Division would be different and consequently, there is no bar for the authorities of a particular Zone to redesignate a particular post for administration convenience.

3. Prior to redesignation of the posts, the hierarchy in the Legal Department was as under:-

However, the designation was revised with effect from February 2006 and consequently, the designation of Assistant Law Officer is changed to Law Officer, the designation of Law Officer is changed to Senior Law Officer and designation of Senior Law Officer is changed to Deputy Law Officer. However, the pay scales remained same, which means the Assistant Law Officer, whose designation is changed to Law Officer and who was drawing pay scale of 7500-12000 has remained the same pay scale even after his redesignation. Since the petitioner was appointed as Assistant Law Officer on 2.7.12.2005, he was required to carry out the duties of the Assistant Law Officer. However, the post was redesignated as Law Officer carrying the same pay scale of Rs. 7500-12000. Merely because of

redesignation of the post, the petitioner cannot claim higher pay scale. In the old Zones, the senior most Law Officer is called as Senior Law Officer whereas in the new Zone the Senior Law Officer is called as Deputy Law Officer. Merely because the designations are changed, none can claim the higher pay scale.

In view of the above, the Tribunal is justified in confirming the order passed by the Department by holding that the petitioner is not entitled to higher pay scale.

4. For promotion to the next higher cadre, the petitioner should serve eight years. On the other hand, the petitioner was appointed as Assistant Law Officer on 27.12.2005 and he retired on 30.4.2008. He retired within 2? years of his appointment as Assistant Law Officer. As aforementioned, eight years" service is must for getting higher promotional post in the Law Department. Therefore, even on that ground, the petitioner is not entitled to higher pay scale. The petitioner relies on Indian Railway Establishment Code, Vol (1) - Chapter - 1 - Item No. 109 to contend that the revised scales of pay admissible to Railway servants in Group-A and Group-B shall be notified by the government with the sanction of the President of India and no alteration in the scale of pay can be made without sanction of the President of India.

The aforementioned Code, in fact goes against the petitioner. Whenever the pay scales are to be revised in respect of Group-A and Group-B posts, the same has to be notified by the Government with the sanction of the President of India. The petitioner is asking for revised pay scale. The same cannot be done without the sanction of the President. However, there is no prohibition in the Code for redesignation of the post.

In view of the same, no interference is called for. Hence, writ petition fails and accordingly the same stands dismissed.