
(2011) 03 KAR CK 0104
In the Karnataka High Court
Case No : Writ Petition No. 38528 of 2010

T.R. Swamy

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0104

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : M.N. Prasanna, for the Appellant; Revathi Adinath Narde, High Court Government Pleader for Respondent No. 1, Basavaraj V. Sabarad, for Respondent-2 and B.B. Patil and Associates, for the Respondent

Judgement

Anand Byrareddy, J.—The writ petition coming on for preliminary hearing "B" group is taken up for final disposal, having regard to the completion of the pleading and the circumstances, as narrated by the Counsel for the Petitioner.

2. The facts are:

The Petitioner had joined the services of the Respondent No. 2-Board as Assistant Engineer in the year 1984 by direct recruitment, as he belongs to a scheduled caste. On operation of the roster, he was promoted as Deputy Development Officer on 19.10.1989, He was further promoted as Development Officer on 30.08.1996. The Departmental Promotion Committee which, met on 13.08.2008 after considering the cases of all eligible officers, found, the Petitioner fit and merited for promotion as Additional Chief Development Officer and his case was accordingly recommended. By an office order dated 19.01.2009, the Petitioner was indeed promoted as Additional Chief Development Officer but in spite of promoting him with retrospective effect from. 13.8,2006, it is stated that post of Chief Development Officer was held by one Sri Prabhakara H. Chinni, Chief Engineer from the Karnataka Public Works Department Engineering Services on deputation. The Regulations provide for filling up of the posts by deputation, However, the deputation is resorted to when no eligible

officer is available in the Board, The Petitioner having been promoted as on 19.01.2009 as Additional Chief Development Officer, according to the Petitioner there was no need or reason to continue Shri Chinni, as an officer on deputation. It transpires that the Government has recalled the services of Chinni to his parent department and by an office order dated 03.08.2009, the Petitioner was placed in additional charge of the post of Chief Development Officer. It transpires that the third Respondent M.B. Burji was brought on deputation as Chief Development Officer in the place of Shri Chinni who was earlier deputed to the said post. It is this aspect by which the Petitioner was aggrieved. It however transpires that the third Respondent has been relieved by an order dated 21.6.2010 and to that extent the first part of the prayer whereby it is sought for the issuance of a writ in the nature of quo warranto insofar as the appointment of the third Respondent is concerned would become infructuous. However, the second part of the prayer whereby, a direction is sought to the second Respondent to consider the case of the Petitioner for appointment to the post of Chief Development Officer would survive and the learned Counsel would submit that he should be placed in charge of the post of Chief Development Officer and the Petitioner's case be considered on merit.

3. The learned Counsel for the Respondents would submit that the Petitioner would have no vested right for an exclusive consideration of his appointment to the post of Chief Development Officer, He would submit that the post of Chief Development Officer can be filled, up in three different ways viz, (1) by promotion (2) by deputation and (3) by direct, appointment.

4. The Petitioner seeking promotion as Chief Development Officer would necessarily have to be pitted against others, who are equally qualified and therefore, the Petitioner's request for a direction to be exclusively considered for the post may not arise.

5. Though the Petitioner has sought to word his prayer as if an exclusive right is sought, it is made clear that the Petitioner's case can be considered only against other eligible candidates, who may be equally suitable for the post, Accordingly; the petition insofar as seeking a direction to quash the notification deputing the third Respondent as Chief Development Officer having been rendered infructuous, the petition is disposed of, with a direction to the second Respondent to consider the case of the Petitioner along with, other eligible candidate, The present position being that the Petitioner holding the post of Chief Development Officer as in-charge and acting as Chief Development Officer it would be open for the Respondents to choose any of the methods in filling up the post and if it should be by promotion, the Petitioner's case shall be considered along with other eligible candidates and in accordance with law. The petition stands disposed of accordingly.