

(2001) 03 KAR CK 0057
In the Karnataka High Court
Case No : Writ Petition No. 8347 of 1999

Yasmeen Begum

APPELLANT

Vs

Board of Directors, Karnataka Leather Industries
Development Corporation Limited, Bangalore and Another

RESPONDENT

Date of Decision : 07-03-2001

Acts Referred:

Citation : (2002) 4 KarLJ 71 : (2001) 3 KCCR 1547

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : K.S. Sreekanth, for the Appellant; B.C. Prabhakar, for Respondent-2,
for the Respondent

Final Decision : Allowed

Judgement

Mohamed Anwar, J.—Heard the arguments of learned Counsels on both sides.

2. Petitioner joined the services of respondent-Leather Industrial Corporation Limited (the Corporation" for short) as a Second Division Assistant ("SDA" for short) in the year 1969. When she so joined the service on the establishment of respondent-Corporation, she had completed S.S.L.C. examination having studied in Urdu Medium up to 7th standard and the high school classes in English Medium. Somewhere in 1996, her salary increments were withheld by the Corporation on the ground that she had not passed Kannada language examination. Then, she gave a representation to the respondent-Corporation vide Annexure-E, dated 29- 10-1998, requesting it to release the same. On her representation, the salary increments were notionally released by the respondent-Corporation without any financial benefit to petitioner through its office order dated 12-1-1999 vide Annexure-F, and extending the financial benefit of increments to her only from 15-12-1998. Immediately thereafter, another order dated 27-1-1999 vide Annexure-A of the respondent-Corporation followed withdrawing its earlier order dated 12-1-1999 (Annexure-F). Hence, the petitioner has approached this Court with her writ petition praying that the said

order dated 12-1-1999, vide Annexure-F and the order dated 27-1-1999 (Annexure-F) of the respondent-Corporation may be quashed as void and inoperative. It is further prayed that a writ of mandamus be issued to the respondent-Corporation not to apply the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974, to the petitioner's case, since these rules are not adopted by It for its employees.

3. Mr. B.C. Prabhakar, learned Counsel for respondent-Corporation was fair enough in his submission that as contended by the petitioner, there is no service rule governing the conditions of the employees of the Corporation which makes it obligatory for them to pass any Kannada language examination to earn the annual increments in their salaries. It was further submitted that the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974, are not adopted by the respondent-Corporation as applicable to its employees. Therefore, I find that the petitioner's contention that these rules are not applicable to her service under the Corporation is entitled to be upheld. And there being no any other such rule made by the Corporation as a service condition of petitioners service, it cannot proceed to withhold any increment from her salary or any part thereof on the ground that she had not passed any particular Kannada language examination.

4. Mr. Prabhakar has made a faint attempt to support the impugned order of the respondent-Corporation on the ground that the Corporation being an undertaking company of the Karnataka State Government, it has to be presumed that the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974, are also applicable to its employees. But, this contention has no legal basis for the reason that the respondent-Corporation being a company registered under the Companies Act will have its distinct identity as a juridical person and will be governed by its own Articles of Association and the rules of service concerning its employees. Unless the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974, are expressly adopted by the Board of respondent-Corporation to its employees also, the same cannot be imposed on them by any such presumption or assumption. Therefore, the petition deserves to be allowed as prayed.

5. Hence, for the reasons aforesaid, the petition is allowed. The impugned orders at Annexure-A bearing No. Lidkar:Adalits:E-6:98-99:2552, dated 27-1-1999 and Annexure-F bearing No. Lidkar:Adalita:E-6:98-99:2407, dated 12-1-1999 are quashed. It is declared that the Karnataka Civil Services (Service and Kannada Language Examination) Rules, 1974, are not applicable to the petitioner's service on the establishment of the respondent-Corporation.