

Ramesh Vs. The State of Karnataka, Urban Development Department and Others

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Court : Karnataka Dharwad

Decided On : Jun-02-2014

Judge : H. Billappa

Appeal No. : Writ Petition No. 75685 of 2013 (S-Pro)

Appellant : Ramesh

Respondent : The State of Karnataka, Urban Development Department and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 And 227 Of The Constitution Of India Praying To Direct The Respondents 1 And 2 To Consider The Representations Df. 11.12,2006, 4.5.2010 and 5.12.2012 Submitted By The Petitioner Vide Annexures-J, L and N Respectively.)

1. Heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents 1 to 3.
2. In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner has sought for writ of mandamus directing the respondents 1 and 2 to consider the representations dated 11.12.2006, 4.5.2010 and 5.12.2012 vide Annexures-T, V and xli' respectively.

3. The case of the petitioner is that he was appointed as Junior Engineer on daily wage basis on 26.12.1983. His services were regularized by the second respondent by order dated 1 1.8.1997 with effect from 26.12.1993. The first respondent prepared separate seniority list of Junior Engineers and Assistant Engineers in the year 1999. Thereafter, the first respondent issued notification dated 7.8.2001 and 16.4.2003 clarifying the method of promotion to the post of Assistant Executive Engineer from the post of Junior Engineer. The first respondent made the Rules known as the Karnataka Municipalities Recruitment of (Officers and Employees) Rules 2004. Even as per the said rules, the educational qualification prescribed for the appointment to the post of Junior Engineer is Diploma course in Civil or Electrical Engineering. The petitioner gave a representation dated 11.12.2006 to the first respondent requesting to assign proper seniority to him. The first respondent without considering the objections submitted by the petitioner published final seniority list of the Assistant Executive Engineers under Part I and Part IT dated 28.3.2007. The petitioner submitted a representation dated 4.5.2010 requesting the respondents to consider his grievance regarding preparation of common seniority list. On 25.9.2010, the first respondent issued notification and published separate seniority list of Assistant Executive Engineers who are possessing Engineering graduation and Diploma course. In the year 2011, the first respondent by invoking powers under section 323 of the Karnataka Municipalities Act and in supersession of the earlier notification dated 8.7.2004 under which 2004 Rules were published, formulated the Rules known as the Karnataka Municipalities Recruitment of (Officers and Employees) Rules 2010. Even as per the said rules, the educational qualification prescribed for the appointment to the post of Junior Engineer is Diploma course in Civil or Electrical Engineering. However, the first respondent vide order dated 4.12.2012 incorporated condition No.2 to the effect that the candidates who are possessing the Graduation in Civil Engineering are only eligible for the promotion to the post of Executive Engineer from the post of Assistant Engineer and as such deprived the rights of the candidates like the petitioner who are possessing Diploma in Civil Engineering to claim promotion to the post of Executive Engineer. The petitioner submitted a representation dated 5.12.2012 to the respondents requesting to prepare common seniority list. The respondents have failed to

consider the request of the petitioner. Therefore, the petitioner has approached this Court with this writ petition seeking direction to the respondents 1 and 2 to consider the representations dated 11.12.2006, 4.5.2010 and 5.12.2012.

4. The respondents have not filed any objections.

5. The grievance of the petitioner is, the seniority list prepared by the first respondent is not proper and the candidates like him who are possessing Diploma in Civil Engineering are deprived of promotion to the post of Executive Engineer. The petitioner was appointed as Junior Engineer on daily wage basis on 26.12.1983. His services have been regularized by the second respondent by order dated 11.8.1997 with effect from 26.12.1993. He has given representations dated 11.12.2006, 4.5.2010 and 5.12.2012 vide Annexures-T, V and 'N' to assign him proper seniority. The said representations have not been considered. The respondents 1 and 2 being the concerned authorities ought to have considered the representations of the petitioner, but they have failed to do so. Therefore, it is necessary to direct the respondents 1 and 2 to consider the representations of the petitioner dated 11.12.2006, 4.5.2010 and 5.12.2012 vide Annexures-T, V and 'N' and pass appropriate orders.

Accordingly, the writ petition is allowed and the respondents 1 and 2 are directed to consider the representations of the petitioner dated 11.12.2006, 4.5.2010 and 5.12.2012 vide Annexures-T, V and 'N', in accordance with law and pass appropriate orders within three months from the date of receipt of a copy of this order.

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