

Chowranna Vs. Basappa and ors.

Chowranna Vs. Basappa and ors.

SooperKanoon Citation : sooperkanoon.com/370784

Court : Karnataka

Decided On : Nov-11-1977

Reported in : 1978(1)KarLJ103; (1978)IILLJ42Kant

Judge : K. Bhimayya, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.S. No. 392 of 1975 and 3020 of 1976

Appellant : Chowranna

Respondent : Basappa and ors.

Judgement :

ORDER

1. In these two writ petitions under Art. 226 of the [Constitution of India](#), the petitioners have sought for the issue of a writ of mandamus or any other direction to respondent 1 to 3 to consider the case of the petitioner's daughter Kumari Josephin (WP. 392/75) and the son of the petitioner Jagadish (WP. 3020/76) as office clerks in the Account's Office at Mysore Division. These two petitions are by the wards of the petitioners in both writ petitions.

2. The case of the petitioners is that Railways Trade Unions, declared railway strike in the month of May, 1974. It was declared illegal. However, the Union Government was anxious to see that railways functioned for the nation without the

workers being intimidated. The Railways Minister, announced in a speech in the Rajya Sabha on May 3, 1974 certain benefits for the workers who continued to work in whatever difficult situation that may arise during the period of strike. The assurances given for the loyal workers who faced the difficult situation were :

1. Full protection;
2. Extension of service for those who are due to retire;
3. Preference in employment and rewards to railway workers and special recognition of their services;
4. Increment in pay; and
5. Rapid promotion to deserving people in railways.

3. In pursuance of this assurance the Central Government gave directions through the Railway Board to all the General Managers of various railways zones for implementation of these assurances. Option was given to loyal workers to apply in a proforma seeking the benefit, if they so desire for their sons or daughters to be appointed in the vacancies available provided they had requisite qualification to hold the post. Accordingly, these two petitioners applied for their wards being appointed as clerks in the Account's Office of the Mysore Division. Where there were vacant posts to be filled up by the Railways.

4. In response to the application made by the petitioners Kumari Josephin and Jagadish were asked to attend a written test and they attended the test on 10th August, 1974. Twenty per cent of the vacant posts were directed to be filled up by the appointment of sons and daughters of Loyal workers by the Central Government.

5. The petitioner in WP. 392/75 had been reported to be a loyal worker. His daughter's case was recommended by the Divisional Accounts Superintendent, Mysore for the selection. Similarly the petitioner in WP. 3020/1976 was also considered as a loyal worker and the case of his son Jagadish was also recommended for being appointed as clerk by the Divisional Accounts

Superintendent, Mysore. But, ultimately, they found that their wards were not appointed. On the other hand respondents 4, 5 and 6 were appointed. According to the petitioners the fathers of these three respondent had no citation it did not merit consideration in preference to the petitioners. Their case is that these three posts being to the special category of posts to be filled up by sons and daughters of loyal employees and in the case of appointment to the other posts it was the railways commission that had to result them. Therefore, they have sought for the relief Stated above.

6. The pronouncement of the assurance given by the central Government to the loyal workers is not disputed. In the case of the petitioner in a WP. 3020/76 respondents 1 to 3 have pleaded that only three vacancies were available in the Divl. Accounts Office at Mysore and in these vacancies respondent 4 to 6 who were wards of loyal workers were appointed as clerks. As there were only 3 posts of clerks, the daughter of the petitioners (WP. 392/75) was not appointed as it was not possible to accommodate her. But in the case of the son of the petitioner in WP. 3020/1976 he was not appointed as he was under aged. Further the case of the respondents 1 to 3 is that out of the three vacancies one was reserved for the Scheduled caste and Scheduled tribes and the 6th respondent was appointed in that vacancy, in order to, comply with the quota of reservation Neither of the petitioners belong to the Scheduled caste or Scheduled tribe. Therefore, they no claim to the appointment of the 6th respondent in a reserved vacancy. The appointment of 6th respondent is not open to challenge.

7. The questions for decision are.

(1) Whether respondent 4 and 5 were eligible for appointment in the quota reserved for the loyal railway staff during the strike period; and

(2) Whether the wards of the petitioners, viz., Kumari Josephin and Jagadish are entitled for appointment in the posts reserved for the loyal railway staff.

8. The learned advocate for the railways made available the records relating to the proceedings for selection and appointment of the wards of the loyal staff a railways. There was list of employees whose sons and daughters were

recommended for appointment in Class III cadre which is enclosed to the letter sent by the Divisional Accounts Office, Mysore dated 6-6-1974 in which the citation of the petitioner Chowranna, in WP. No. 392/1975 reads thus :

'He has been a loyal worker during strike period. There was heavy intimidation in the area where he is residing. Some of the workshop employees threatened him that if he attends office, some harm would be done to him. On one day they almost man-handled him. In spite of the heavy intimidation, he attended office regularly. He deserves encouragement for having attended office without worrying about his personal safety. Appointment in Class III is recommended for his daughter'.

9. In case of Basappa the petitioner in WP. No. 3020/1976 the citation reads thus :

'He was loyal worker during the strike period. He was sent on special duty to Asker for emergency duties. He had worked day and night during the strike period without any rest. He deserves all encouragement and a Class III appointment for his son is recommended'.

10. The name of Bhimarao, father of respondent 4 and the name of Honnappa, father of respondent 5, were not found in the consolidated list. There is no citation for Bhimarao. But citation for Honnappa, does not disclose any exemplary conduct in discharging his duties by risking his life, besides the citation is belated. The recommendation of the 2nd respondent to appoint these two person was not found in the consolidated list of recommendations made by the Divisional Accounts Office. Further, the two names which were recommended to the 1st respondent for appointment by the 2nd respondent do not satisfy the guide-lines in Ext. 'O'. A reference may be made to the latter at Ext. 'O', which reads thus :

'Having regard to the fact that the availability of vacancies is limited, it is but necessary that only those who have distinguished themselves during the strike by doing exemplary work and others who displayed high devotion to duty unmindful of the risk and dangers to which they were exposed should get this highest award. For example an employee who manned the station single handed when all others had deserted the station would obviously fall within the classification. Another instances that could be considered is that if an employee who struck to his post in

spite of violence and intimidation. These instances are by no means exhaustive but only illustrative of the type of cases which could come up for consideration for the grant of this award.

The cases recommended should contain citation highlighting the exemplary nature of work performed by each of the employee who qualified for this award. The names should be arranged in order of preference giving due priority for those maintained essential services and manned vital installations. The recommendations already made may be reviewed in the light of this directive and fresh list seen early.'

11. The recognition for appointment of respondent 4 and 5 made by the 2nd respondent is clearly in violation of the circular at Ext. 'O', as their fathers had not distinguished themselves during the strike by doing exemplary work nor they had displayed high devotion to duty unmindful of the risk and dangers in discharges of their duty.

12. In the reply statement filed on behalf of the petitioners to the Statement of objections filed on behalf of respondents 1 to 3, it is alleged that the 2nd respondent's recommendation was arbitrary and not based on merits and was the result of pressure and influences. Further the contention of the petitioners is that 1st and 2nd respondents have followed a pick and choose policy in selecting these three candidates. The allegations made against the 2nd respondent on behalf of the petitioners is not devoid of force. In the absence of the recommendation with citation, the 2nd respondent has recommended the case of respondent 4 and 5 whose fathers had not distinguished themselves by exemplary work and risking their lives. Therefore, it smacks of favouritism and arbitrariness. The 2nd respondent has no explanation why he recommended the case of respondent 4 and 5 in violation of the guidelines issued at Ext. 'O' especially when the fathers of respondents 4 and 5 were ineligible for the appointment in the quota reserved for the loyal railway staff therefore respondents 4 and 5 were not eligible to be appointed in the quota reserved for the children of loyal workers in pursuance to the announcement made by the Minister in the Rajya Sabha. Therefore, respondents 4 and 5 were not eligible for the appointment in the quota reserved

for the loyal railway staff during the strike period, as such those appointments cannot be sustained in the reserved quota and those appointments are deemed to have been made outside the reserved quota.

13. Now turning to the 2nd question, it may be straightaway stated that Kumari Josephin, daughter of the petitioner in WP. 392 of 1275 is entitled for appointment as clerk in the Accounts Office at Mysore in the quota reserved for the loyal railway staff, as the name of the petitioner is found in the recommendation list made by the Divisional Accounts Office at Mysore and there is citation in his favour for the exemplary work he did by risking personal injury. Therefore, he is entitled for the issue of a writ of mandamus as prayed for, for the appointment of his daughter as a clerk in the Railway Accounts Office a Mysore.

14. As regards Jagadish, the son of the petitioner in WP. 3020/1976 the learned Railway advocate contended that he was under aged when he was interviewed on 28-11-1974. The date of birth of Jagadish is 5-12-1956. He was eighteen years of age on 5-12-1974. It is curious to note in this connection that the 5th respondent's daughter Kumari Leelavathi was interviewed on 6-12-1974 just a day after Jagadish attained the minimum age for appointment. The appointment of respondent 5 was made actually after the date of interview when Jagadish was eligible for appointment having the minimum age prescribed for appointment. There was no particular date fixed with reference to which the eligibility of the age was required to be determined. In the absence of any specific date being fixed it is reasonable to say that on the date of appointment the candidate should have the eligibility regarding age. In the case of Jagadish, he had the minimum age for the appointment at or about the time when Kumari Leelavathi daughter of Honnappa was appointed in the railways. Therefore, he is entitled to be appointed as a clerk in the Accounts Office at Mysore from out of the reserved quota for the loyal staff.

15. For the reason stated above, issue a writ of mandamus to respondents 1 to 3, to consider the case of Kumari Josephin and Jagadish, for appointment as clerks in the Accounts Office at Mysore Division and to take such other action as its necessary for their appointment as clerks. Since the appointments of respondents 4 and 5 have become a fait accompli and those appointments are outside the

quota reserved for loyal railway staff, the Court is no inclined to interfere with their appointments.

16. In the result, both the writ petitions are allowed. parties to bear their own costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com