

Rangappa (K.) Vs. State of Mysore and anr.

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Court : Karnataka

Decided On : Nov-11-1968

Reported in : ILR1969KAR225; (1970)ILLJ155Kant

Judge : A.R. Somnath Ayyar and ;Ahmed Ali Khan, JJ.

Appeal No. : Writ petition No. 956 of 1966

Appellant : Rangappa (K.)

Respondent : State of Mysore and anr.

Judgement :

Somnath Ayyar, J.

1. When the petitioner was superseded and his juniors were promoted to the next higher grade of Excise Inspector, the petitioner appealed to Government and the appeal succeeded. By an order made by Government on 31 July, 1961, two persons who were juniors to the petitioners but who had been promoted earlier were placed below the petitioner and the petitioner was assigned higher position. His promotion to the next higher grade of Excise Inspector was made retrospective and it took effect from the date on which his immediate junior was promoted.

2. Thereafter, the petitioner was urging for the re-fixation of his pay in the higher post on the basis of the retrospective promotion, and, notwithstanding a large

number of reminders sent by him to Government he received no reply. This writ petition is the sequel to the correspondence which went on between the petitioner and Government in that way. Although the prayer in this writ petition is somewhat cumbersome, it is clear that the prayer in effect is that there should be a direction for the payment to the petitioner of the pay with respect to the antecedent period during which he was superseded.

3. During the pendency of this writ petition the petitioner died and his legal representatives have been brought on the record.

4. Normally, if a person is unjustly superseded and the supersession is redressed in an appeal, all the ancillary benefits which flow from such redressal must be made available to the person who had been so superseded. But Sri Chandrasekhar for the Government contended that according to the Government notification of 12 February, 1960, a person who gets his promotion with retrospective effect on the ground that he had been unjustly superseded cannot have any claim for back-pay and allowances. But this Government notification cannot deprive the petitioner of a claim to which he is otherwise entitled.

5. It is the practice of this Court in all cases where a person's promotion is directed with retrospective effect, to issue a further direction that all the consequences ensuing from such direction must flow and that the person who secures that direction should be given the benefit of all the advantages flowing therefrom.

6. Following that principle, we make direction in this case that in respect of the period during which the deceased petitioner had been unjustly superseded according to decision of Government in the appeal to which we have referred, his legal representatives shall be paid the difference in the pay and allowances which the petitioner should have received had he not been superseded. No costs.

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