

Annadanappa Vs. State of Karnataka

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Court : Karnataka

Decided On : Jan-07-1986

Reported in : ILR1986KAR511; (1986)IILLJ15Kant

Judge : K. Jagannatha Shetty and ;N.D. Venkatesh, JJ.

Acts : Karnataka State Servants (Determination of Age) Act, 1974 - Sections 5, 5(1), 5(2), 5(3), 5(4) and 5(5); [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 152/83

Appellant : Annadanappa

Respondent : State of Karnataka

Advocate for Pet/Ap. : Sri. U. L. Narayana Rao

Judgement :

ORDER

Puttaswamy, J.

1. At the time the petitioner entered Government service, he had given his date of birth as 6th December, 1927 and the same was entered in his service register. On 12th June, 1975 the petitioner made an application under S. 5(2) of the Karnataka State Servants (Determination of Age) Act, 1974 (hereinafter referred to as the Act) before Government for altering his date of birth from 6th December, 1927 to

6th December, 1930. As required by the Act, the application made by the petitioner was referred to one of the Deputy Secretaries to Government in the Law Department who happens to hold the rank of a Civil Judge in the Karnataka Judicial Service for enquiry and report. Before the Enquiry Officer, the petitioner placed his evidence in support of his case. On a consideration of the evidence placed before him, the Enquiry Officer by his report dated 16th August, 1982 (Annexure-A) held that the petitioner had not made out a case for alteration of his date of birth and advised Government to reject the application made by the petitioner. Accepting the said report, Government by its Order No. HD 157 PEI 75 dated 3rd November, 1982 (Annexure-B) has rejected the application made by the petitioner. In this petition under Art. 226 of the Constitution, the petitioner has challenged the order dated 3rd November, 1982 of Government.

2. Sri U. L. Narayana Rao, Learned Counsel for the petitioner, contends that Government has rejected the application made by his client without applying its mind and without assigning reasons in support of the same as required by the Act. In support of his contention Sri Narayana Rao strongly relies on the decision of this Court in *Manik Bhat v. State of Karnataka* 1978 (1) K.L.J. 213.

3. As noticed earlier, the Enquiry Officer on a consideration of the evidence placed before him, found that the petitioner had not made out a case for alteration of his date of birth. In reaching that conclusion the Enquiry Officer had critically examined the evidence placed before him and had given reasons in support of his conclusions. When Government accepts a report of an Enquiry Officer, it was satisfied that everyone of the reasons given by the Enquiry Officer were valid and good. Before accepting such a report, the Act does not compel Government to furnish reasons.

4. In *Manik Bhat's* case (*supra*), this Court was examining a converse case where the Government without assigning reasons had refused to accept a reasoned report of an Enquiry Officer who had recommended for alteration of the date of birth of Manik Bhat. It is in that context this Court held that Government was bound to give reasons before refusing to accept a reasoned report of an Enquiry Officer. But, that is not the position in the present case. In this view, the principle

enunciated in Manik Bhat's case has no application.

5. Sri Narayana Rao next contends that in appreciating the evidence and recording his findings the Enquiry Officer has approached the matter as if it was a criminal case, which was impermissible and illegal.

6. A reading of the order of the Enquiry Officer shows that he has not approached the case before him as if it was a criminal trial. On the other hand he has approached the case as if it was a quasi judicial enquiry and has reached his conclusions. In appreciating the evidence and recording his findings, the Enquiry Officer has kept before him the correct legal principles and has reached his conclusions. The conclusions reached by the Enquiry Officer, accepted by the State Government essentially on a question of fact cannot be upset by this Court in exercise of its extraordinary jurisdiction under Art. 226 of the Constitution.

7. As all the contentions urged for the petitioner fail, this Writ Petition is liable to be rejected. I, therefore, reject this Writ Petition at the preliminary hearing stage without notice to the Respondents.

Jagannatha Shetty, Acting, C.J.

1. This appeal is directed against the order dated 15th December, 1982 made by the Learned Single Judge dismissing Writ Petition No. 42391/82.

2. H. Annadanappa, the appellant, was a Government servant. In 1950, he joined service as a Clerk in the Food Department and in 1951, he was selected as a Police Daffedar in the Police Department of the erstwhile State of Mysore. He rose from that cadre finally to the post of Deputy Superintendent of Police. When he was serving in that cadre in the Intelligence Bureau at Bangalore, he made an application under S. 5(2) of the Karnataka State Servants (Determination of Age) Act, 1974 (hereinafter referred to as the 'Act') requesting the Government to alter his date of birth from 6th December, 1927 to 6th December, 1930. It may be stated that his S.S.L.C. records bear an entry that he was born on 6th December, 1927. On that basis, his service records were built up and maintained almost right upto his date of retirement. It was only at the fag end of his service, he made an

application as aforesaid for altering his date of birth from 6th December, 1927 to 6th December, 1930.

3. His application was considered by the Enquiry Officer appointed under S. 5(3) of the Act. The Enquiry Officer was none other than the Solicitor and Ex-officio Deputy Secretary to Government, Department of Law and Parliamentary Affairs. He was a Civil Judge on O.O.D. Before the Enquiry Officer, Annadanappa adduced evidence both oral and documentary. The Enquiry Officer after considering the material placed before him and hearing the Appellant, held that there is no basis for accepting the claim of Annadanappa for alteration of his date of birth from 6th December, 1927 to 6th December, 1930 for the purpose of service as a State Servant.

4. The Government, after accepting the report of the Enquiry Officer, has made an order as follows :

'Order No. HD 157 PEI 75 Bangalore : Dated 3rd November, 1982.

5. The report of enquiry furnished by the Solicitor & Ex-Officio Deputy Secretary to Government, Department of Law and Parliamentary Affairs and Enquiry Officer has been considered. Government has after examination accepted the findings of the Enquiry Officer. Hence, the request of Sri H. Annadanappa, Police Inspector, now Deputy Superintendent of Police working on deputation in Intelligence Bureau, Government of India, Ministry of Home Affairs as A.C.I.O. Bangalore, for revision his date of birth from 6th December, 1927 to 6th December, 1930 is rejected.

By Order and in the name of the Governor of Karnataka Sd/-(M. Venkataswamy)'

5. Being aggrieved by the aforesaid order, Annadanappa filed Writ Petition No. 42391/82 in this Court. That Writ Petition was rejected by the Learned Single Judge upon a preliminary hearing. The learned Judge has given the following reasons for rejecting the Writ Petition :

'..... The Enquiry Officer on a consideration of the evidence placed before him, found that the petitioner had not made put a case for alteration of his date of birth.

In reaching that conclusion the Enquiry Officer had critically examined the evidence placed before him and had given reasons in support of his conclusions. When Government accepts a report of an Enquiry Officer, it was satisfied that every one of the reasons given by the Enquiry Officer, were valid and good. Before accepting such a report, the Act does not compel Government furnish reasons.

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In appreciating the evidence and recording his findings, the Enquiry Officer has kept before him the correct legal principles and has reached his conclusions. The conclusions reached by the Enquiry Officer, accepted by the State Government essentially on a question of fact cannot be upset by this Court in exercise of its extraordinary jurisdiction under Art. 226 of the Constitution.'

Challenging the validity of the aforesaid order, Annadanappa has preferred the Writ appeal.

6. The contention urged by Sri U. L. Narayana Rao, Learned Counsel for the appellant, is that the Government, while accepting the report of the Enquiry Officer, ought to have given reasons for its conclusion and since no reasons have been assigned, the order of the Government cannot be accepted. In our opinion, it is hard to accept this contention.

Section 5 of the Act provides procedure for alteration of age or date of birth of State servants. Sub-section (1) of S. 5 provides that the State Government may hold an enquiry for the purpose of altering the age and date of birth of a State servant as recorded or deemed to have been recorded in his service register or book or any other record of service. Sub-section (2) thereof states that no such alteration of the age and date of birth of a State servant could be made to his advantage unless he makes an application for the purpose within the time prescribed thereunder. Sub-section (3) thereof provides that the State Government, instead of holding an inquiry by itself, may by a notification in the Official Gazette, appoint such officer as it deems fit for the purpose of making an enquiry under sub-s. (1). The officer appointed under sub-s. (3) shall have the powers of a Civil Court while trying a suit under the code of Civil Procedure and

also deemed to be a Civil Court for the purposes specified under sub-ss. (4) and (5) of S. 5.

7. If any enquiry is held by the Officer appointed under sub-s. (3) of S. 5, it would be as good an enquiry held by the Government under sub-s. (1) of S. 5. But the Government has to make a formal order accepting or rejecting the findings recorded by such Enquiry Officer. It would be open to the Government to accept the report of the Enquiry Officer or to differ from it. If it considers that the report should be accepted, it need not give its own reasons apart from those recorded by the Enquiry Officer. If, however, the Government chooses to differ from the conclusions reached by the Enquiry Officer, it must give valid reasons in support of its conclusion. These are the well-accepted principles with regard to quasi judicial enquiries conducted by statutory or administrative authorities.

In *David v. State of Karnataka* 1979(1) K.L.J. 1, a Division Bench of this Court, after following the observation of the Supreme Court in *State of Madras v. A. R. Srinivasan* (A.I.R. 1966 S.C. 1827 @ 1831) has taken the same view as we have taken above.

8. It was, however, urged by Sri Narayana Rao that the decision of this Court in *Manik Bhat v. State of Karnataka* [1978-I K.L.J. 213] support his contention. We do not think so. There, the Enquiry Officer accepted the plea of the State servant for change of his date of birth. But the Government, did not accept that report. The Government in fact, rejected the report of Enquiry Officer by a bald order which this Court found it difficult to understand and follow. The Learned Single Judge (Puttaswamy, J.), after considering the scope of the Act, observed :

'11. Under the provisions of 'the 1974 Act' Government has no doubt the power to accept or reject the report of the Enquiry Officer. It is also open to the Government to re-appraise the evidence and arrive at its own conclusions and reject the report of the Enquiry Officer. But before doing so, the Government is required to give sufficiently clear and explicit reasons in support of its order which are lacking in the impugned order.'

The aforesaid observation, in our opinion, has no application where the Government wants to accept the report of the Enquiry Officer or the findings recorded by the Enquiry Officer.

9. That apart, the Enquiry Officer, after considering the material produced before him, has reached the conclusion that Annadanappa has not established that his date of birth was 6th December, 1930 and it was wrongly entered in his Service Register as 6th December, 1927. That conclusion has been reached by the Enquiry Officer on a proper appraisal of the facts and circumstances of the case. Even the Government after considering the report has accepted the same. Such a conclusion, cannot be interfered with by this Court in exercise of the jurisdiction under Art. 226 of the Constitution, unless it is shown that that conclusion has been vitiated by any error of law, or not taking into consideration of relevant material. No such infirmity has been pointed out in this case.

The appeal, therefore, fails and is dismissed.

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