

Mallikarjun Vs. the State of Karnataka by Its Secy. and ors.

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Court : Karnataka

Decided On : Feb-07-2005

Reported in : ILR2005KAR4133; 2006(3)KarLJ134

Judge : K. Sreedhar Rao, J.

Acts : Karnataka Civil Services General Recruitment Rules, 1977 - Rule 3; Karnataka Civil Service Probation Rules - Rules 4, 5 and 6; Karnataka Civil Service Rules

Appeal No. : W.P. No. 14745 of 2004

Appellant : Mallikarjun

Respondent : The State of Karnataka by Its Secy. and ors.

Advocate for Def. : Rosa Paramel, HCGP Adv.

Advocate for Pet/Ap. : T. Narayanaswamy, Adv.

Disposition : Petition allowed

Judgement :

ORDER

K. Sreedhar Rao, J.

1. The Petitioner was appointed and working as Stenographer under the 2nd Respondent. The third Respondent issued public citation calling for applications for the post of stenographer. The Petitioner applied to the post and was selected in the reserved quota carrying benefit of Rural weightage. The Supreme Court held that rural weightage benefit given under Rule 3(b) of the Karnataka Civil Services General Recruitment Rule 1977 is illegal and unconstitutional. Consequential the Petitioner stood discharged from the service by the order of the third Respondent vide order at Annexure-M dated 12.8.2003.

2. The Petitioner claims that by virtue of the provisions in Rule 5 of Karnataka Civil Service Probation Rules, he should be reappointed by the second Respondent in the district judiciary of Karnataka. The provisions of Rule 5 reads thus :

'5. Declaration of satisfactory completion of probation etc., (1) At the end of the prescribed or, as the case may be, the reduced or extended period of probation, the Appointing Authority shall consider the suitability of the probationer to hold the post to which he was appointed, and.-

a) if it decides that the probationer is suitable to hold the post which he was appointed and he has passed the special examinations or tests, if any, required to be passed during the period of probation if shall, as soon as possible, issue an order declaring the probationer to have satisfactorily completed his probation and such an order shall have effect from the date of the expiry of the prescribed, reduced or extended period of probation;

b) if the Appointing Authority decides that the probationer is not suitable to hold the post to which he was appointed or has not passed the special examinations or special tests, if any required to be passed during the period of probation, it shall unless the period of probation is extended under Rule 4, by order, discharge him from service.

2) A probationer shall not be considered to have satisfactorily completed the probation unless a specific order to that effect is passed. Any delay in the issue of an order under Sub-rule (1) shall not entitled the probationer to be deemed to have satisfactorily completed his probation.'

Note:- In this rule and Rule 6 'discharge' in the case of probationer appointed from another service or post, means reversion to that service or post.

3. The close reading of the provisions of Rule 5 discloses that a person appointed on a probation to a post in the Karnataka Civil Service Rules, if discharged is entitled to get back to the earlier post held by him., in Karnataka State Civil Services. The note appended to Rule 5 makes the position clear that discharge in a case of probation appointed from one service or post means reversion of that service or post.

4. Indeed, the Government has made a similar interpretation while giving benefit to some of the judicial officers, who stood discharged from the post after the judgment of the Supreme Court and those officers, who were earlier appointed as Assistant Public Prosecutors were re-appointed to the posts of Assistant public Prosecutors by interpreting Rule 5 in the manner stated above. In that view of the matter, the Petitioner will also be entitled to a similar benefit under Rule 5. Therefore, it is directed that the second Respondent shall appoint the Petitioner to the post of stenographer in the unit of District and Sessions Judge, Bijapur. The impugned order at Annexure-X, is therefore, quashed. The writ petition is allowed.

The learned H.C.G..P. is permitted to file memo of appearance within four weeks.

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