

C.R. Ashok Vs. State of Karnataka and ors.

C.R. Ashok Vs. State of Karnataka and ors.

SooperKanoon Citation : sooperkanoon.com/386906

Court : Karnataka

Decided On : Sep-08-2008

Reported in : 2009(3)KarLJ281:2009(1)KCCR634:2009(2)AIRKarR555(D.B)

Judge : P.D. Dinakaran, C.J. and ;Mohan Shanthanagoudar, J.

Acts : Karnataka Civil Services (General Recruitment) Rules, 1977 - Rule 9;
Karnataka Civil Services (General Recruitment) (Amendment) Rules, 2000 - Rule 2

Appeal No. : Writ Appeal No. 1308 of 2008

Appellant : C.R. Ashok

Respondent : State of Karnataka and ors.

Advocate for Pet/Ap. : T.S. Mahanthesh, Adv.

Judgement :

P.D. Dinakaran, C.J.

1. Appellant is the petitioner in Writ Petition No. 9162 of 2008, wherein he had sought to quash the endorsement dated 25-6-2008 issued by the 2nd respondent pursuant to a communication dated 10-6-2008 issued by the 3rd respondent.

2.1 The brief facts of the case are:

The appellant-writ petitioner is the grandson of one Javaregowda who was the owner of the land bearing Sy. No. 261/1 and 2 to an extent of 21 guntas of Navile Village. The said land was submerged in the Hemavathi Left Bank Project in the year 1988-89. It is the case of the appellant that himself, his father, mother, brother and his grandfather were all living together and that they constitute a single family.

2.2 Applications were invited for the post of Primary School Teachers by the 2nd respondent and the appellant-writ petitioner applied for the same claiming the quota under Dependents of Project Displaced Persons as per the amendment to Rule 9 of the Karnataka Civil Services (General Recruitment) Rules, 1977 (for short, 'the Rules') and he was selected for the post of primary school teacher. The DDPI, Davanagere, forwarded the documents furnished by the appellant for verification to the 3rd respondent-Deputy Commissioner, Hassan, regarding dependents of project displaced persons. The Deputy Commissioner, Hassan District vide communication dated 10-6-2008 reported that the appellant, who is the grandson of the project displaced person, is not covered under the definition of project displaced persons. Accordingly, on the basis of the said report, the 2nd respondent has issued an endorsement dated 25-6-2008 stating that it is not permissible to appoint the appellant under the quota of project displaced persons and the appellant was informed to collect all the original documents from the office of the 2nd respondent. Aggrieved by the said communication and the endorsement of the respondents, appellant preferred Writ Petition No. 9162 of 2008.

2.3 The learned Single Judge, by order dated 30th June, 2008 holding that the definition of the members of the family of project displaced persons does not include the grandson, rejected the writ petition, however, reserving liberty to the appellant-writ petitioner to seek appointment in any other category, if it is permissible under the law.

3. We have heard the learned Counsel for the appellant, who reiterated the contentions that were urged before the learned Single Judge.

4. The short question that arises for our consideration in this appeal is whether the appellant falls within the definition of the members of the family in relation to a project displaced person. It is apt to refer to the relevant provision of the Rules. Rule 2 of the Amendment Rules, 2000 reads thus:

2. Amendment to Rule 9.-In Rule 9 of the Karnataka Civil Services (General Recruitment) Rules, 1977.-...

Provided also that, all things being equal, direct recruitment under this sub-rule shall be made in the following order of preference, namely.:

(i) the members of the family of a project displaced person who has lost to a project, his dwelling house and at least fifty per cent of his agricultural land on which he was dependent;.

(iv) the members of the family of a project displaced person in any other case.

Explanation.-For the purpose of this sub-rule.:

(2) 'Members of the family' in relation to a project displaced person means the family of the project displaced person consisting of such person and his or her spouse, sons, unmarried daughters, brothers and sisters residing with him and dependent on him for their livelihood...

(emphasis supplied)

5. It is a cardinal principle of construction of statute that, when the language of the statute is plain and unambiguous, then the Court must give effect to the words used in the statute and it would not be open to the Courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act (vide *Union of India and Anr. v. Hansoli Devi and Ors.* : [2002]SUPP2SCR324).

6. It is emphasised that while interpreting the statute, every effort should be made to give effect to each and every word used by the Legislature. The Courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect language of

the Act, clear and explicit (vide *Nathi Devi v. Radha Devi Gupta* : AIR 2005 SC648).

7. In the instant case, the Legislature has deliberately not included the grandson within the definition of the members of the family. Therefore, from a perusal of the definition of the members of the family of project displaced persons, it is clear that it does not include grandson as one of the members of the family. It is also undisputed that the father of the appellant is still alive and it is only displaced person's son who can seek appointment under the Rules and the grandson has no right to claim any benefit under the Rules. In that view of the matter, we do not find any error in the impugned endorsement as also the order of the learned Single Judge.

8. At this stage, learned Counsel for the appellant points out that the learned Single Judge while rejecting the writ petition, has reserved liberty to the appellant to seek appointment in any other category, if it is permissible under law. Reserving liberty to the appellant as aforesaid, writ appeal stands disposed of.

9. In view of the disposal of the main appeal itself, no further orders are necessary on I.A. No. 1 of 2008.