



IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 14th DAY OF DECEMBER 2004

PRESENT

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

AND

THE HON'BLE MR. JUSTICE H. BILLAPPA

WRIT PETITION NO. 30501-03/2000 (S-CAT)

BETWEEN:

1. G. Rajanna
s/o. Gangappa, 50 years,
Mali, Central Poultry
Breeding Farm, Hessargatta
Bangalore-88.

2. S. Nagaraje Gowda
s/o. Sidda Gowda
52 years, Watchman
Central Poultry Breeding
Farm, Hessargatta
Bangalore-88.

3. M. Ramaiah
s/o. Munichannappa
57 years, Peon
Central Poultry Breeding
Farm, Hessargatta,
Bangalore-88

... Petitioners

(By Sri. H. R. S. Rao, Adv)

AND:

1. The Union of India
Rept. By the Secretary
To the Govt. of India
Ministry of Agriculture
Dept. of Animal Husbandary

And Dairying, Krishi Bhavan
NEW DELHI-110 001

2.The Director,
Central Poultry Breeding Farm,
Hesaragatta, Bangalore-88. ... Respondents

(By Sri.R.Veerendra Sharma, ACGSC)

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These writ petitions are filed under Articles 226 and 227 of the Constitution of India praying to review and reconsider the order dated 8.3.2000 passed by the Central Administrative Tribunal and set aside the impugned order dated 8.3.2000 of the CAT, Bangalore Bench in original applications No.573, 666 and 667/97 Annexure-"A" and to allow the applications filed by the petitioners before the CAT.

These writ petitions coming on for hearing this day, V.Gopala Gowda., J, made the following:-

ORDER

Heard the learned counsel for the parties.

2. The petitioners who are unsuccessful persons before the Central Administrative Tribunal(in short "CAT") have questioned the correctness of the order dated 8.3.2000 passed in the Original Application Nos.573, 666 and 667/97 and have sought for issuance of a writ of




certiorari seeking to quash the same and to allow their applications by granting their claim, urging various grounds.

3. The case of the petitioners in these petitions is that they are holding the posts of Mali, Watchman and Peon in the Central Poultry Breeding Farm in the pay scales of Rs.750-940 and later their pay scale was fixed in the scale of Rs.950-1500 by an order as per Annexure-"A3" at Rs.970/- w.e.f.1.4.1991. By Annexure-A8 dated May, 1997 the earlier order Annexure-A3 was modified and their pay scale was fixed in the scale of Rs.775-1025. Therefore, the petitioners who belonged to Group-"D" posts claimed the benefits as provided under Paragraph(2) read with Sub-Para(f) of the Office Memorandum dated 13.9.1991 to fix the higher scales of pay though they do not possess the requisite qualification as required under the Cadre Recruitment Rules to the posts of LDC. The CAT without considering the aforesaid aspects in respect of these petitioners has held that the fresh fixation of




pay scale is valid and consequently their applications were dismissed after referring to the aforesaid relevant paragraphs of the Office Memorandum produced at Annexure-"C" in these petitions. Hence, they are aggrieved of the order and they have filed these writ petitions questioning the legality of the same by urging various grounds.

4. It is contended by the learned counsel for the petitioners that the impugned order passed by the CAT is vitiated on account of erroneous findings and reasons. It is urged that the CAT has not at all adverted to the facts which are pleaded by them at Paragraph(5) in the re-joinder statement by furnishing the names of - 15- persons who are all Group-"D" employees, working in different posts in the Office of the respondents and who did not possess the prescribed qualification under the Cadre Recruitment Rules for promotion to the functional posts of LDC and their pay scale was fixed in the higher pay scales in the non-functional posts




by following the guidelines enumerated at Annexure-"C", which facts are pleaded in the rejoinder statement and the same are not denied by the respondents. It is further urged that the CAT has not considered the above relevant aspects of the case pleaded by the petitioners in justification of their claim and as such the impugned order is bad in law for non-consideration of this relevant facts. It is further submitted by the learned counsel on behalf of the petitioners that if it were to be considered by the CAT, it should have certainly extended the benefits to the petitioners as has been extended in favour of such persons who are similarly situated as that of them for the reason that the plea in respect of the above said persons as pleaded in the rejoinder statement is not denied. The consideration of the case of the petitioners differently by the respondents with that of those persons whose names are furnished in the rejoinder statement has caused invidious discrimination, which is in violation of the Article 14 of the Constitution of India.



Therefore, the learned counsel for the petitioners has sought for quashing the impugned order in exercise of this Court's extraordinary and supervisory jurisdiction.


5. The learned counsel appearing on behalf of the respondents has sought to justify the findings and the reasons recorded by the CAT in its order contending that the relevant Clauses (C) and (F) as mentioned at paragraph (2) of the Office Memorandum at Annexure-"C" are in detail extracted by the CAT in its order and it has applied its mind to the facts of the case with reference to the rival legal contentions and recorded the finding holding that the petitioners are not entitled for higher pay scales as they do not possess the required qualification of Metriculation for claiming the above monetary benefits.

6. With reference to the above said rival legal contentions urged on behalf of the parties, we have carefully perused and examined the




impugned order passed by the CAT to find out as to whether the same warrants interference with by this Court.

7. No doubt, the CAT has adverted to the facts pleaded in the original applications of the petitioners with reference to the statement of counter filed by the respondents. The CAT has proceeded to examine the claim of these petitioners with reference to the prescription of the qualification under the Cadre and Recruitment Rules for fixation of the higher pay scales to their posts irrespective of the fact as to whether it is a functional or non-functional. The object of the Office Memorandum referred to supra with non-functional posts, fixation of pay-scales is to see that Group-"C" and "D" employees in the Offices of the respondents shall not be allowed to stagnate in the same cadre and therefore certain monetary benefits are fixed by the respondents as provided at Paragraph(2) of the Office Memorandum produced at Annexure-"C". Non-consideration of this important aspect of the



matter and rejection of the claim of the petitioners by the CAT solely on the ground that they do not possess the qualification of Matriculation as per C & R Rules has rendered the impugned order erroneous in law.

8. Added to this, non-consideration of the grant of the higher pay scales to the -15- other persons who are similarly placed as that of the petitioners and names of those persons are furnished at Paragraph(5) of the rejoinder statement, who also do not possess the required qualification as prescribed under the Cadre Recruitment Rules, which fact is not disputed by the respondents and therefore the action of them in treating them differently by fixing different pay scales is a clear case of discrimination and thereby the fundamental rights guaranteed to them is affected. Therefore, the submission made by the learned counsel for the petitioners is well founded and the same must be accepted and this Court has to interfere with the impugned order as



the same is vitiated in law for the reasons stated supra.

9. For the foregoing reasons, these writ petitions are allowed. The impugned order is hereby quashed. The original applications filed by the petitioners are hereby allowed with a direction to the respondents to consider their case and extend the monetary benefit in terms of Annexure-"C" on par with the other employees whose names are mentioned at Paragraph(5) of the rejoinder statement from the date of their entitlement within six months from the date of receipt of this order

Sd/-
Judge

Sd/-
Judge

*alb/-