

PETITIONER:
H.C. PUTTASWAMY AND ORS.

Vs.

RESPONDENT:
HON'BLE CHIEF JUSTICE OF KARNATAKAHIGH COURT, BANGALORE AND

DATE OF JUDGMENT05/11/1990

BENCH:
SHETTY, K.J. (J)
BENCH:
SHETTY, K.J. (J)
AGRAWAL, S.C. (J)

CITATION:
1991 AIR 295 1990 SCR Supl. (2) 552
1991 SCC Supl. (2) 421 JT 1990 (4) 474
1990 SCALE (2)942

ACT:

Karnataka Civil Services (General Recruitment) Rules 1977-Rule 6(3)(b)--Second Division Clerks in subordinate courts--Benefit of age relaxation--Grant of--Humanitarian approach--Necessity for.

Article 229 of the Constitution--Appointment of court staff-Chief Justice/Administrative Judge--Not an absolute ruler--To operate in a clean world and remain committed to the constitutional ethos and traditions of his calling.

HEADNOTE:

Appointments to the posts of Second Division Clerks in all the State Departments of the Karnataka Govt. are governed by the Karnataka Civil Services (Ministerial Posts) Recruitment Rules, 1966 and the power to make selection vests in the State Public Service Commission. Each Department notifies the number of required posts to the Public Service Commission and the Commission after following the prescribed procedure selects persons. The said Rules are made applicable to the judicial department also by statutory Rules called the Karnataka Subordinate Courts (Ministerial and other posts) Recruitment Rules, 1977. Contrary to the said statutory Rules by Notification dated 29.5.1978, the High Court of Karnataka invited applications for the posts of 40 Second Division Clerks and 25 posts of Typists and Typists-copyists in the establishment of the High Court. The notification stated that the selection would be to fill up the then existing posts and for preparing a waiting list. Large number of candidates including the appellants submitted their applications. The then Chief Justice of the High Court appointed as many as 398 candidates as against 40 posts advertised; he retained 56 on the establishment of the High Court and the rest were transferred to the subordinate courts. These appointments were made during the years 1980 to September 1982.

In 1983 seven persons who had applied for the pests in response to the advertisement dated 29.5.1978, moved the High Court by means of writ petitions challenging the validity of all the aforesaid appointments. They urged that they had better merit than the appointees and the

appointments made by the Chief Justice from time to time without considering their case was arbitrary and in derogation of the rules of recruitment. The High Court by its order date 21.1.1988 allowed the writ petitions and quashed the appointments. The affected persons filed a petition before this Court against the order of the High Court which was dismissed by this court with certain directions so that the petitioners could, as far as possible be absorbed.

The Petitioners however being dissatisfied, filed the instant review petitions on the plea that the directions issued by this Court are not likely to ensure to the benefit of a large number of petitioners, as majority of them had already crossed the age of 40 years and thus would not be able to avail of the benefit of age relaxation under Rule 6(3)(b) of the Karnataka Civil Services (General Recruitment) Rules 1977, that they had put in more than 10 years of service and that it would cause them irreparable injury if they are thrown out of employment at that stage of their life, as they are not likely to come anywhere near the zone of selection in the event of fresh selection.

This Court admitted the review petition after notice to the Respondents, granted special leave to appeal after recalling its earlier order dated 30.4.1990; and allowing the resultant appeals,

HELD: The judiciary is the custodian of constitutional principles which are essential to the maintenance of the rule of law. It is the vehicle for the protection of a set of values which are an integral part of our social and political philosophy. Judges are the most visible actors in the administration of justice. Their case decisions are the most publicly visible outcome. But the administration of justice is just not deciding disputed cases. It involves great deal more than that. Any realistic analysis of the administration of justice in the Courts must also take account of the totality of the Judges behaviour and their administrative roles. They may appear to be only minor aspects of the administration of justice, but collectively they are not trivial. They constitute a substantial part of the mosaic which represents the ordinary man's perception of what the courts are and how the judges go about their work.

The Chief Justice or any other Administrative Judge is not an absolute ruler. Nor he is a free-wheeler. He must operate in the clean world of law, not in the neighbourhood of sordid atmosphere. He has a duty to ensure that in carrying out the administrative functions, he is actuated by same principles and values as those of the Court he is

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serving. He cannot depart from and indeed must remain committed to the constitutional ethos and traditions of his calling. Those who are expected to oversee the conduct of others, must necessarily maintain a higher standard of ethical and intellectual rectitude. The public expectations do not seem to be less exacting.

The circumstances of the instant case, however, justify a humanitarian approach and indeed, the appellants seem to deserve justice ruled by mercy.

Lila Dhar v. State of Rajasthan, [1981] 1 SCR 320 at 326; A.K. Yadav v. State of Haryana and Ors., [1985] 4 SCC 417; State of U.P.v. Refiquddin and Ors., [1988] 1 SCR 794; Miss Shainda Hasan v. State of U.P. and Ors., [1990] 2 All India Services Law Journal 93; Channabasaviah v. State of Mysore and Ors., [1965] 1 SCR 360; referred to.

JUDGMENT :

JUDIS