

Karnataka Power Corporation Ltd. and Another Vs A.T. Chandrashekar

Court: Supreme Court of India

Date of Decision: Feb. 28, 2007

Citation: AIR 2007 SC 2480 : (2007) AIRSCW 4417 : (2007) 5 ALLMR 917 : (2007) 5 KarLJ 471 : (2007) 4 LW 240 : (2007) 6 MLJ 748 : (2007) 3 SCALE 674 : (2007) 9 SCC 558 : (2007) 3 SCR 424

Hon'ble Judges: Lokeshwar Singh Pantaa Panta, J; Arijit Pasayat, J

Bench: Division Bench

Advocate: S. Ganesh, Pratap Venugopal, Surekha Raman and E. Venu Kumar, for K.J. John and Co, for the Appellant; R.S. Hegde, Chandra Prakash Tyagi, Savitri Pandey, Rahul Tyagi, Public Prosecutor Singh, Shantha Kumar, V. Mahale and Rajesh Mahale, for the Respondent

Final Decision: Allowed

Judgement

Arijit Pasayat, J.

Leave granted.

2. Challenge in these appeals is to the judgment rendered by a Division Bench of the Karnataka High Court allowing the writ appeal filed by the

respondents setting aside the order of dismissal by learned Single Judge in the writ petition filed.

3. The background facts in a nutshell are as follows:

An examination was held by the appellant-Karnataka Power Corporation Ltd. (hereinafter referred to as the "Corporation") for the purpose of

selecting persons for the post of Assistant Accounts Officers. The said examination was held on two dates i.e. on 29.08.1991 and 30.08.1991.

The result was declared on 19.12.1991. Twelve persons were declared successful in the said examination and by a circular dated 19.12.1991

respondent M.R. Somashekhar was promoted to the post of Assistant Accounts Officer. Similar was the case with respondent A.T.

Chandrashekhar. Some time after the date of promotion, allegations were made that the Chief Examiner had allowed some of the candidates to

write the examination papers at his house. On this allegation the Corporation decided to call for re-examination. The Managing Director initially did

not agree with the suggestions. But he found substance in the allegation that the Chief Examiner purportedly made ""test check"" and added more

marks in the case of some candidates. The papers were sent for valuation to the Department of Commerce and Management, Bangalore,

University. On the evaluation done by the Department of Commerce and Management, Bangalore University, it was noted that the respondents

had secured less marks than the required qualifying marks. Ultimately by circular dated 23.10.1993 Corporation deleted the names of the

concerned respondents by publishing revised results. In the ultimate result 12 candidates were declared successful. Four persons were found

unsuccessful on the basis of marks found on revaluation though at the first instance they were found successful. Challenge was made by

Respondent M.R. Somashekhar and respondent A.T. Chandrashekar by filing writ petitions. Both the writ petitions were dismissed by learned

Single Judge. Writ Appeals were filed before the Division Bench. The prime stand in the writ appeals was that the decision of the Corporation to

send the papers for valuation to the Department of Commerce and Management was unauthorized. It was also their stand that the only person

qualified to evaluate the papers was the Chief Examiner of the Corporation and subordinates to him and there was no provision in the applicable

rules to get the papers evaluated by a third party, which in the present case was Department of Commerce and Management of Bangalore

University. The High Court allowed the Writ appeals. It was concluded that on evaluation by different evaluators there is scope for marginal

difference. The same cannot be a ground to hold that the first evaluation was wrong. It was held that there may be permissible limit of variation up

to 5 marks which are to be ignored in the absence of allegation of malpractice on the part of the candidate or any fraud or irregularity in the

examination or at the time of re-valuation. The High Court found that this was not a case where large number of candidates were involved, and

allegation of mass copying cannot be made as this was a case of test check.

4. The Corporation in its appeal has questioned the judgment of the High Court on basically three grounds regarding the following exclusions i.e.

(1) Candidates were not given independent hearing before sending the papers for revaluation. (2) When malpractice is not proved Corporation

cannot send the papers for revaluation. (3) In re-valuation variation up to 5 marks is permissible and such variation can be ignored.

5. Learned Counsel for the respondents submitted that a comparison of the marks shows that the evaluation, as originally done, does not suffer

from any marked difference. Therefore, the High Court was right in its conclusion. It is noted that in the case of respondent A.T. Chandrashekar,

he had failed in the examination, even on original evaluation, as he had secured 26.5 marks which are well below the qualifying marks i.e. 40

marks. The valuation by the Chief Financial Controller (Evaluation) had no semblance of reliability and credibility. In one case it is found that the

person who had failed in the original evaluation was declared to have passed in the revaluation. In sharp contrast was another case where the

marks were much less. Ultimately the question is one of fairness and accuracy in evaluation.

6. In the case of one Hanchinamuth, the variation in two papers were 33 and 46 in paper 2 and 26 & 40 in paper 3. Similar was the position in

respect of some other candidates. It is not a question whether there is increase or decrease and as noted above, the ultimate question is whether

there was any rationality in the evaluation. Though it was really not a case of mass malpractice, the Corporation only undertook revaluation as the

Chief Examiner had conducted test checks resulting in wide variation of marks without any justifiable reasons.

7. The principles applicable to mass malpractice are equally applicable to such cases where it is found that the variations even in test checks results

in considerable change in the marks. That forms the basis for testing correctness of the allegations. The High Court, therefore, was not justified in

holding that (a) respondents were entitled to notice before sending the papers for revaluation or that (b) the direction for revaluation was

unauthorized. The Corporation was acting on the basis of allegations of malpractice which as later events proved was not wrong. In 295247 it was

held that an individual candidate need not be given an opportunity of personal hearing before a decision for revaluation is taken. This was a

reiteration of the principles elaborately stated by this Court in 283450 .

8. The High Court's conclusions are indefensible and are set aside. The appeals are allowed. No costs.