



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2025

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PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 9552 OF 2023 (S-KSAT)

BETWEEN:

1. SRI. M RAME GOWDA,
S/O MUNISHAMAPPA,
AGED ABOUT 55 YEARS,
THE JOINT DIRECTOR OF CO-OPERATIVE AUDIT,
SECRETARY TO EXCISE MINISTER,
VIKASA SOUDHA, AMBEDKAR VEEDHI,
BANGALORE-560 001.
2. SRI. K SHRIDHAR,
S/O KHANDOJI RAO,
AGED ABOUT 55 YEARS,
THE JOINT DIRECTOR OF CO-OPERATIVE AUDIT
ROOM NO.421, 4TH FLOOR,
IST GATE, M S BUILDING,
AMBEDKAR VEEDHI,
BANGALORE-560 001.
3. SRI. RANGASWAMI,
S/O NARAYANAPPA,
AGED ABOUT 57 YEARS,
THE JOINT DIRECTOR OF CO-OPERATIVE AUDIT,
TUMKUR-572 101.

...PETITIONERS

(BY SRI.D.R RAVISHANKAR., SENIOR COUNSEL A/W
SRI.T G RAVI.,ADVOCATE)





AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF CO-OPERATION,
M S BUILDING, AMBEDKAR VEEDHI,
BANGALORE-560 001.
2. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DPAR, VIDHANA SOUDHA,
AMBEDKAR VEEDHI,
BANGALORE-560 001.
3. THE DIRECTOR OF CO-OPERATIVE AUDIT
DEPARTMENT OF CO-OPERATIVE AUDIT,
NO.17, JAYANIVAS, SHANKAR MUT ROAD,
BASAVANAGUDI, BANGALORE-560 004.
4. MR. KHAN PARVEZ,
S/O MOHAMMED HAYAT KHAN,
AGED ABOUT 55 YEARS
JOINT DIRECTOR(UNDE,R RULE 32)
WORKING AS CEO, KARNATAKA WAQF BOARD
BANGALORE-560 052.
PERMANENT ADDRESS AT 56/C,
SHANTHINIKETHAN, BHAIRIDEVAIRKOPPA,
HUBBALLI.
5. SRI. CHANNABASAPPA CHIKKADI,
S/O LATE SRI BASAPPA,
AGED ABOUT 58 YEARS,
THE JOINT DIRECTOR OF CO-OPERATIVE AUDIT,
VIJAYAPURA DISTRICT, KARMIKA BHAVANA,
VIJAYAPURA-586 101.
PERMANENT ADDRESS AT NO.E 15
18TH SECTOR, NAVANAGAR,
BAGALKOT-587 103.

...RESPONDENTS

(BY SRI.B RAVINDRANATH., AGA FOR R1 TO R3;
SRI. C M NAGABHUSHANA., ADVOCATE FOR R4 & R5)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT TO QUASH THE ORDER DATED 16/03/2023 PASSED BY THE HON BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL BANGALORE IN APPLICATION NO.4754 AND 4755/2022. THE CERTIFIED COPY OF THE ORDER PASSED IN APPLICATION NO.4754 AND 4755/2022 DATED 16/03/2023 VIDE ANNEXURE-A AND B) PASS ANY OTHER ORDERS OR DIRECTIONS.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

ORAL ORDER

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

Petitioners are knocking at the doors of Writ Court for assailing Karnataka State Administrative Tribunal's order dated 16.3.2023 whereby, private respondents Application Nos.4754 & 4755/2022 having been favoured, the endorsement dated 12.10.2022 issued by the 3rd respondent herein has been set at naught.



2. For ease of reference, the relevant part of said Endorsement is reproduced:

“ಉಲ್ಲೇಖ (1) ರ ಈ ಕಛೇರಿಯ ಅಧಿಸೂಚನೆಯಲ್ಲಿ 1997ರ ಬ್ಯಾಚಿನ ಪರೀಕ್ಷಾರ್ಥ ಸಹಾಯಕ ನಿರ್ದೇಶಕರುಗಳು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮ (ಸಾಮಾನ್ಯ ನೇಮಕಾತಿ) 1977 ರ ನಿಯಮ 18(2) ರನ್ವಯ ಹಾಗೂ ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ನೌಕರರ (ಜ್ಯೇಷ್ಠತೆ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 5(2) ರನ್ವಯ ಸಹಾಯಕ ನಿರ್ದೇಶಕರ ವೃಂದದಲ್ಲಿ ತಡವಾಗಿ ಕರ್ತವ್ಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಂಡ ಅಧಿಕಾರಿಗಳ ಜ್ಯೇಷ್ಠತೆಯನ್ನು ಕೆಳ ಹಂತದಲ್ಲಿ ನಿಗದಿಗೊಳಿಸಿ. ದಿನಾಂಕ 31.12.2021 ರ ಅಂತ್ಯಕ್ಕೆ ಇದ್ದಂತೆ ಸಹಾಯಕ ನಿರ್ದೇಶಕರ ವೃಂದದ ಪರಿಷ್ಕೃತ ತಾತ್ಕಾಲಿಕ ಜ್ಯೇಷ್ಠತಾ ಪಟ್ಟಿಯನ್ನು ಪ್ರಕಟಿಸಿ. ಈ ಸಂಬಂಧ ಆಕ್ಷೇಪಣೆಗಳೇನಾದರೂ ಇದ್ದಲ್ಲಿ, 15 ದಿನಗಳೊಳಗೆ ನಿರ್ದೇಶನಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಲು ಸೂಚಿಸಲಾಗಿತ್ತು.”

The net effect of this Endorsement is that the candidates selected & appointed to the subject posts if joined the duty belatedly albeit with the permission of the competent authority issued under Rule 18(2) of Karnataka Civil Services (General Recruitment) Rules, 1977, shall be assigned ranking below those who reported in time, though such those figure below the late joiners in the original Select List.

3. Learned Sr. Advocate Mr.D.R.Ravishankar appearing for the petitioners argues that Rule 18(1) of 1977 Rules prescribes the joining period and Rule 18(2) provides for its extension; Rule 5(2) of Karnataka Government



Servants' (Seniority) Rules, 1957 provides for fixation of seniority by referring to Rule 18(1) of 1977 Rules; as a consequence, although candidates are permitted to join belatedly with leave, they have to suffer lower ranking in the Seniority List. He further argues that the impugned Endorsement having been accordingly premised, could not have been quashed by the Tribunal. He adds that the decision of the Apex Court in Chairman, **P.SRINIVAS vs. M.RADHAKRISHNA MURTHY**¹, has been wrongly construed. So arguing, he seeks invalidation of the Tribunal's order and thereby, revival of the impugned Endorsement.

4. Learned AGA appears for the official respondents and makes legal submissions; learned counsel Prof. C.M. Nagabhushana appearing for the private respondents opposes the petition making submission in justification of both the impugned order of the Tribunal and the Endorsement. He contends that disputes relating to

¹ AIR 2004 SC 2767



seniority cannot be artificially created by the State agency since they will have repercussions; sub-Rules (1) & (2) of Rule 18 of 1977 Rules have to be harmoniously read with Rule 5(2) of 1957 Rules since both the sets of these Rules happen to be delegated legislations. Lastly, he contended that Endorsement of the kind was impermissible when both Provisional and Final Seniority List were structured on the premise that the late joiners would not lose their seniority. So contending, they pray for dismissal of the Writ Petition.

5. Having heard the learned counsel for the parties and having perused the Petition Papers, we decline indulgence in the matter for the following reasons:

5.1 Let us see the text of Rule 18 of 1977 Rules, which is much banked upon by both the sides:

"18. Joining time for appointment.

(1) A candidate appointed by direct recruitment shall assume charge of the post specified by appointing authority as soon as possible after the date of the order of appointment, but not later than fifteen days from this date.



Explanation.-For the purpose of the sub-rule, "the date of the order of appointment" means the date of despatch of the order of appointment by registered post to the address given by the candidate.

(2) Notwithstanding anything contained in sub-rule (1), the appointing authority may, on the application of the candidate and if satisfied that there are good and sufficient reasons for doing so, by order in writing, grant such further time, as it may deem necessary.

(3) The name of the candidate who fails to assume charge of the post within the time specified in sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and the candidate concerned shall cease to be eligible for appointment."

5.2 The text & context of these Rules are as clear as gangetic waters and they do not admit any interpretation because of their plainness. Rule 18(1) of 1977 Rules prescribes a maximum period of fifteen days for joining duty once the appointment order has been issued to the selectee in direct recruitment process. Rule 18(2) empowers the appointing authority to extend the joining period for good and sufficient reasons and that it has to be done by an order in writing. The object of Rule 18(2) is to



save the appointment when the selectee fails to report for duty within the prescribed period under Rule 18(1). This becomes clear by Rule 18(3) itself, which will not only invalidate the appointment but make the candidate ineligible for future appointment also.

5.3 The private respondents herein reported for duty belatedly pursuant to extension granted under Rule 18(2) of 1977 Rules. To that extent, we agree with the submission of Mr.Ravishankar and this view gains support from ***JOSHI S R vs. STATE OF KARNATAKA***². Late Justice Rama Jois in his Magnum Opus 'SERVICES UNDER THE STATE' 2007 Edition, Indian Law Institute, at page 536, writes as under:

"But where the rules provide that if the direct recruit fails to report for duty within the prescribed time, he has to take seniority from the date of joining duty. By not joining duty within the prescribed time he loses his claim for seniority on the basis of the select list."

5.4 Now let us come to Rule 5(2) of 1957 Rules which has been very vociferously pressed into service by

² (1983) 1 Kar LJ 537



Prof.Nagabhushana in support of his contention that the recruits joining belatedly can't be pushed down in the Seniority List in disregard of their ranking in the Selection List. The same reads as under:

"Notwithstanding anything contained in sub-rule (1), the seniority of a candidate who assumed charge of a post after the period specified in sub-rule(1) of Rule 18 of the Karnataka Civil Services (General Recruitment) Rules, 1977, shall be determined as from the date on which he assumed charge of such post."

His submission that Rule 5(2) of 1957 Rules and Rule 18(2) of 1977 Rules have to be harmoniously construed so that even late joiners would retain their ranking to accord with the Select List, is bit difficult to countenance. Rule 18 contemplates joining period, extension of joining period and forfeiture of appointment. This Rule is miles away from the norms regulating seniority. However, Rule 5(2) internalizes Rule 18(1) of 1977 Rules in so many words. If it was the intent of Rule Maker that even those falling under Rule 18(2) should also get seniority in accordance with their ranking in the Select List, he would have



incorporated Rule 18(2) as well, in the text of said Rule 5(2). Obviously, that has not been done.

5.5 The argued question of harmonizing the above Rules would not arise merely because both these Rules have been promulgated by the very same Rule Maker as a set of subordinate legislations. Any standard authors on Administrative Law like Jain & Jain, S.P.Sathe, I.P.Massey and even Prof. H.W.R.Wade, do not support the submission of the kind advanced by Prof. Nagabhushana for invoking the doctrine of harmonious construction. Even Maxwell's Interpretation of Statutes does not mention about such an approach in circumstances of this kind. Ordinarily, the harmonious construction is undertaken when two Rules have conflicting texts, the word 'conflicting' having a very wide import. We do not see any such conflict between Rule 18(2) of 1977 Rules and Rule 5(2) of 1957 Rules.

5.6 The effect of Rule 5(2) of 1957 Rules is that ordinarily, the late joiners i.e., the candidates who report



for duty belatedly by taking refuse under Rule 18(2) of 1977 Rules, have to forego their ranking even when that does not accord with their placement in the Select List. That is the price they pay for retaining the appointment, which otherwise would have lapsed, yielding scope for operating the Additional Select List or the like. Any other interpretation of said Rule 5(2) cannot be sustained without manhandling it. To support this view, we need not much bank upon P.SRINIVAS, *supra*. The decision in **PURI GRAMYA BANK vs. ANANDA CHANDRA DAS**³ was rendered in a different fact matrix and the rule position there did not match with our Rules in question.

5.7 All the above being said, the following two questions crop up for consideration:

(i) Was there occasion for the official respondent to recast seniority position by invoking Rule 5(2) of 1957 Rules read with Rule 18(2) of 1977 Rules when decades have passed since appointment ?

³ (1994) 6 SCC 301



(ii) Was there justification for issuing the impugned Endorsement that provides for alteration of ranking when the norm on which Seniority Lists have been framed all these years has stood intact, there being no challenge thereto ?

Our answers to the above questions are in the negative because:

(a) The petitioners and the private respondents were selected as Assistant Directors in the Department of Cooperative Audit on 25.7.1996, in the direct recruitment process; the Selection List was published on 8.8.1996 in the Official Gazette. Appointment Orders were issued on 6.3.1997. Petitioners joined duty on 25.3.1997 i.e., within the period of fifteen days. However, the private respondents joined belatedly, having secured permission.

(b) The Seniority List of Assistant Directors was published on 23.4.2001; subsequently, it was revised on 18.12.2009. The Seniority List of Deputy Directors was published on 25.11.2011 and 27.11.2017. The same was finalized on 11.01.2018 pursuant to Apex Court decision in ***B.K.PAVITRA vs. UNION OF INDIA***⁴. Subsequently, the Seniority List of Joint Directors on 23.7.2021. In all these Provisional/Final List, the norm that has been operated is

⁴ AIR 2017 SC 820



that belated joining would not push down the candidates in their ranking. Thus, a substratum has been operated for more than two decades. Whatever objections any candidate could have raised in the light of Rule 5(2) of 1957 Rules read with Rule 18(1) of 1977 Rules, was not put forth by anyone and more particularly, by the petitioners herein.

(c) The 3rd respondent published the Provisional Seniority List to the cadre of Assistant Directors during the period between 11.8.1977 and 31.12.2021 pushing down the private respondents herein below the petitioners on the premise that they had joined duty belatedly and therefore, they fall into the parameters of Rule 18(2) of 1977 Rules which is not recognized in Rule 5(2) of 1957 Rules. The settled facts of decades cannot be unsettled by the officials at their whims & fancies even assuming that they have such power. It hardly needs to be stated that existence of power is one thing and its exercise is another. The Apex Court in *V.VINCENT VELANKANNI vs. THE UNION OF INDIA*⁵ has observed:

"50. Thus, much water has flown under the bridge and retrospective application of the GO issued in 2015 would open floodgates of litigation and would disturb the seniority of many employees causing them grave prejudice

⁵ 2024 INSC 748



and heartburn as it would disturb the crystallized rights regarding seniority, rank and promotion which would have accrued to them during the intervening period. To alter a seniority list after such a long period would be totally unjust to the multitudes of employees who could get caught in the labyrinth of uncertainty for no fault of theirs and may suffer loss of their seniority rights retrospectively.”

In the above circumstances, this petition being devoid of merits, is liable to be and accordingly dismissed, costs having been made easy.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE**

DH/CBC
List No.: 1 Sl No.: 12