



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 20TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT PETITION NO.101086 OF 2025 (S-KAT)

BETWEEN:

ISHWAR BHEEMAPPA BELAGAVI,
S/O BHEEMAPPA BALAGAVI,
AGE. 62 YEARS,
RETIRED AS REVENUE INSPECTOR,
OFFICE OF TAHSILDAR, BAGALKOT,
R/O GONDE LAYOUT,
NEAR HORTICULTURE UNIVERSITY,
BAGALKOT 587101.

...PETITIONER

(BY SRI. VIJAY K. NAIK, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
R/BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M.S. BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU 560001.



2. THE REGIONAL COMMISSIONER,
BELAGAVI DIVISION,
BELAGAVI 590001.
3. THE DEPUTY COMMISSIONER,
BAGALKOT DISTRICT,
BAGALKOT 587101.
4. THE TAHASILDAR & TALUKA
EXECUTIVE MAGISTRATE,
BAGALKOT 587103.
5. THE REGISTRAR,
THE KARNATAKA LOKAYUKTA OFFICE,
M.S. BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU 560001.
6. THE ACCOUNTANT GENERAL,
KARNATAKA,
R/BY ITS REGISTRAR,
PARK HOUSE,
BENGALURU 560001.

...RESPONDENTS

(BY SRI. G.K.HIREGOUDAR, PRL. GOVT. ADVOCATE FOR
R1 TO R4 & R6;
SRI. ANIL KALE, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A
WRIT OF CERTIORARI AND QUASH THE IMPUGNED ORDER OF
THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT
BELAGAVI DATED 03-06-2024 IN APPLICATION NO.10959/2023
VIDE ANNEXURE-A & ETC.



THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The petitioner, a retired Revenue Inspector, is before this Court under Articles 226 of the Constitution of India questioning the order dated 03.06.2024 passed in Application No.10959/2023 by the Karnataka State Administrative Tribunal, Belagavi (for short, 'the Tribunal') whereunder the petitioner's challenge to the modified penalty order dated 16.01.2023 (original impugned order dated 19.04.2022) withholding five increments with cumulative effect, is rejected.

2. Heard Sri. Vijay K.Naik, learned counsel for the petitioner, Sri. G.K.Hiregoudar, learned Principal Government Advocate for respondents No.1 to 4 and 6, and Sri. Anil Kale, learned counsel for respondent No.5. Perused the entire writ petition papers.



3. The learned counsel for the petitioner would submit that the petitioner questioned the order of penalty dated 19.04.2022 whereunder the petitioner has been imposed punishment of withholding five annual increments with cumulative effect. However, the learned counsel submits that the petitioner had not questioned the said order but had questioned the consequent recovery in pursuance of the order dated 19.04.2022. Learned counsel would submit that the penalty of consequential recovery is opposed to decision of the Hon'ble Apex Court in the case of ***State of Punjab and Others Vs. Rafiq Masih*** (Whitewasher)¹, since the petitioner has retired from service.

4. *Per contra*, learned Principal Government Advocate would submit that the order of penalty dated 19.04.2022 is in pursuance of the order dated 25.05.2021 passed by this Court in W.P.No.100172/2021. It is submitted that, after holding an enquiry against the petitioner, penalty of compulsory retirement was imposed on the petitioner and the said order of compulsory retirement was the subject matter of application before the

¹ (2015) 4 SCC 334



Tribunal, and this Court in W.P. No.100172/2021. This Court under order dated 25.05.2021 quashed the order of compulsory retirement by substituting the same by imposing the penalty of withholding five annual increments with cumulative effect and to treat the period of suspension as *dies non*. It is submitted that, since this Court substituted penalty of compulsory retirement to that of withholding five annual increments with cumulative effect, the consequence was to recover a sum of Rs.2,82,702/-. As recovery is in pursuance of the order dated 19.04.2022, learned Principal Government Advocate submits that the decision in **Rafiq Masih's** case (*supra*) would have no application. Thus, he prays for dismissal of the writ petition.

5. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, the only point which falls for consideration is,

Whether the impugned order passed by the Tribunal and the consequential order of recovery dated 26.06.2023 (Annexure-A12) requires interference?

6. The answer to the above point would be in negative for the following reasons:



Admittedly, the petitioner was imposed with penalty of compulsory retirement for the proved misconduct of accepting illegal gratification. The said order of compulsory retirement was the subject matter of Application Nos.6871-6872/2016 before the Tribunal, and W.P. No.100172/2021 before this Court. The Tribunal, by order dated 23.12.2020 dismissed the petitioner's challenge to the order of penalty of compulsory retirement against which the petitioner was before this Court in the above stated writ petition. In the above stated writ petition, this Court, by order dated 25.05.2021 (Annexure-A6), quashed the order of compulsory retirement and substituted the same with that of penalty of withholding five annual increments with cumulative effect and to treat the period of suspension as *dies non*. In the meanwhile, the petitioner had retired from service. The consequence of imposing substituted penalty i.e., penalty of withholding five annual increments is the result of the impugned order dated 26.06.2023. When the recovery is in pursuance of the substituted punishment of withholding five annual increments with cumulative effect, the principles laid down by the Apex Court in **Rafiq Masih's** case (supra) would have no application. The principles in **Rafiq Masih's** case (supra) would have



**NC: 2025:KHC-D:15988-DB
WP No. 101086 of 2025**

application for recovery other than the recovery as a measure of penalty.

We do not find any merit in the writ petition and accordingly, the writ petition stands rejected.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

KMS, CT:VP
LIST NO.: 1 SL NO.: 27