



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 3552 OF 2024 (S-KSAT)

BETWEEN:

SRI. N. ASHOK
S/O NAGAPPA
AGED ABOUT 58 YEARS
WORKING AS FOREST WATCHER
OFFICE OF THE RANGE FOREST OFFICE
AYANUR RANGE, AYANUR SUB-DIVISION
SHIVAMOGGA DIVISION AND CIRCLE
SHIVAMOGGA DISTRICT
R/AT HOLALUR, MATHAD BEEDI
HOLURU HOBLI AND POST
SHIVAMOGGA

...PETITIONER

(BY SRI. RANGANATH S. JOIS, ADVOCATE FOR
SRI. S.Y. RODAGI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
DEPARTMENT OF FOREST
M.S.BUILDING
BENGALURU-560 001
2. THE CHIEF CONSERVATOR OF FOREST
ARANYA BHAVAN, 18TH CROSS
MALLESHWARAM
BANGALORE-560 003



3. THE DEPUTY CONSERVATOR OF FORESTS
SHIVAMOGGA DISTRICT
SHIVAMOGGA-577 201
4. THE RANGE FOREST OFFICER
AYANU RANGE
AYANU SUB-DIVISION
SHIVAMOGGA DISTRICT-577 211

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA AGA FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS RELATING TO THE IMPUGNED ORDER OF THE HON'BLE TRIBUNAL DATED 10.03.2023 IN A.No-5053/2021 VIDE ANNEXURE-A, PERUSE THE SAME AND QUASH THE SAID ORDER AS ERRONEOUS ARBITRARY ILLEGAL WITHOUT APPLICATION OF MIND AND VIOLATIVE OF ARTICLE 14 AND 16(1) OF THE CONSTITUTION OF INDIA AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' group, 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 RAMACHANDRA D. HUDDAR)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, seeking to quash the order dated 10.3.2023 passed by the Hon'ble Karnataka State Administrative Tribunal (KSAT) in Application No.5053/2021, whereby the claim of the petitioner for regularization of his services was erroneously dismissed ignoring the well-established principles of law and relevant Government Orders.

Brief facts of the Case

2. That the petitioner was working as a daily wage employee in the Forest Department since 1.7.1973. He has sought the benefit of regularization of his services under the Government Order dated 6.8.1990, which was issued in furtherance of the decision of Apex Court. The said Government Order categorically provides, that employees appointed prior to 1.7.1984 on completion of



10 years of service, are entitled to be regularized in service.

3. It is the case of the petitioner that, he had continuously worked as a daily wage employee in the Forest Department fulfilling all conditions prescribed under the above Government Order; however, despite the clear entitlement, the respondents failed to act upon the legitimate claim of the petitioner for regularization of his services and thereby, compelled him to approach the KSAT by filing Application No.5053/2021.

4. The KSAT, without proper appreciation of facts and law and the Government Order, without applying judicial mind, dismissed his Application on erroneous grounds and thereby, deprived the petitioner of his rightful claim. The KSAT failed to consider the parity principle in service jurisprudence and over looked the fact that, other similarly placed daily wage employees including one Sri.V.T.Ganappa Gowda had been granted regularization.



5. This application was opposed by the respondents before the Tribunal by filing objections contending inter alia that, as a matter of right claimant is not entitled for any relief much less claimed in the application. The very claim of the applicant petitioner never fits in the principles laid down in the **Secretary, State of Karnataka and Others v. Umadevi (3) and Others**, reported in **(2006) 4 SCC 1**. It is further contended that, the applicant is not entitled for any relief. By denying the assertions made in the application, it is prayed to dismiss the application.

6. The KSAT dismissed the application of the petitioner by the impugned orders. This is how, now the petitioner is before the writ Court claiming to set aside the said order and grant him all the relief as prayed for.

7. The learned counsel for the petitioner Sri Ranganath S. Jois with all vehemence submits that, the documents produced by the petitioner both before the KSAT and before this Court, do establish that, though



there was a direction issued by the Apex Court in various decisions to regularize the services of daily wage employees, if they fulfill certain conditions and on a similar footing a co-employee by name Revanna S., had preferred the Writ Petition No.36491/2016 which Co-ordinate Bench of this Court allowed the same vide order dated 23.7.2018 granting the relief of regularisation. Being aggrieved by the same, the respondents therein preferred the Civil Appeal No.5292/2019 before the Apex Court and the same was dismissed on 9.7.2019. Thereafter, the respondents regularized the services of Mr. Revanna S. So, without considering the representation of the petitioner, properly respondents have denied regularisation to petitioner and compelled him to approach the KSAT. He would further submit that, the KSAT dismissed the application of the petitioner forcing him to prefer this petition.

8. In support of his submission, the learned counsel for the petitioner Mr. Jois places reliance on the following decisions:



- (i). Nihal Singh and others vs. State of Punjab and others - (2013) 14 SCC 65**
- (ii). Jaggo vs. Union of India - 2024 SCC Online SC 3826**
- (iii). State of Karnataka and others vs. M.L.Kesari and other - (2010) 9 SCC 247**

9. Per contra, the learned counsel for the respondents comprising of all the respondents i.e. AGA supported the reasons assigned by the KSAT in dismissing the Application of the petitioner. According to him, the facts of this case are quite different from other cases. He would submit that, the petitioner was not appointed against the sanctioned post and thereby, in view of the decision in **Umadevi**, he is not entitled for any relief. Thus, prays to dismiss the petition.

10. We have heard the arguments of both the sides and perused the records. In view of the rival submissions of both the sides, the core issues that arise for our



consideration in the present petition are, (a) whether the petitioner, who was appointed as a daily wage employee prior to 1.7.1984 and has continuously served for more than 10 years is entitled to regularization under the Government Order dated 6.8.1990 (b) whether the decision of the KSAT in rejecting the claim of the petitioner is perverse, arbitrary and violative of Articles 14 and 16 of Constitution of India, and (c) Whether the principle of 'Equal Pay for Equal Work' should be extended to the petitioner in light of the nature of duties discharged by him?

Analysis and Findings:

11. The Hon'ble Supreme Court in various decisions has categorically held that, in such circumstances, employees who have completed 10 years of service in sanctioned post prior to the pronouncement of ***Umadevi supra***, are entitled for regularization. In this regard the decision in ***M.L.Kesari*** and ***Jaggo (supra)*** are relied upon. In ***M.L.Kesari***, the Apex Court clarified as under:



'those who rendered over ten years of service in sanctioned post should not be deprived of regularization merely due to the procedural delays on the part of the authority'.

The said clarification is taken assistance by this Court in WP Nos.6238/2020 clubbed with WP No.49123/2019 vide judgment dated 17.3.2025.

12. In this case, it is a specific plea of the petitioner that, he was in continuous service in Forest Department as daily wager and he worked on par with regular employees. He has been engaged in said services right from the date of his initial entry. This fact so asserted by the petitioner is not denied by any of the respondents. The KSAT has not appreciated this plea of the petitioner and non-appreciation of this continuous service of more than 30 years definitely and squarely falls within the protective ambit of the principles laid down in the aforesaid decisions.



13. The KSAT has failed to evaluate the substantial evidence furnished by the petitioner including salary records and official departmental correspondences which unequivocally establishes his continuous service. Because of this, the formal absence of appointment order should not in itself negate the legitimate right of an employee who has been continuously engaged in service and his services have been recognized by the Forest Department.

14. On scrupulous perusal of materials placed on record, the petitioner has provided cogent evidence to demonstrate that, the other similarly situated employees have been granted regularization as per the orders of Co-ordinate Bench of this court which is affirmed by the Hon'ble Apex Court stated *supra*. Even the Co-ordinate Bench of this Court in ***Writ Appeal No.100387/2023*** decided on 4.9.2024 (*supra*) authored by one of us (KSDJ) following ***Nihal Singh*** (*supra*) granted relief of the kind to the private litigants by dismissing the appeal of the State



Government. Thus, respondents cannot deny similar relief to the petitioner by quoting jurisprudential theories. But, the KSAT has failed to consider the prayer of the petitioner on a wrong premise that, his claim is not tenable. Thereby, there is violation of Article 14 and 16 of the Constitution. The respondents are the custodians of the relevant records and there shall not be any violation of said Articles of the Constitution.

15. The KSAT has committed error in dismissing the Application and thereby denying the service benefits to the petitioner when he has been continuously engaged by the Government. It is respondents who have committed delay in considering the representation of the petitioner to regularize the service and inaction on the part of the respondents and denial of legitimate rights without any justification clearly amounts to violation of fundamental rights under Article 14 and 16 of the Constitution.



16. Therefore, the vehement submission of the Government Advocate in view of law declared in ***Nihal Singh*** (*supra*), if entry of candidate is illegal i.e. back door entry, such candidature cannot be considered for regularization, does not merit acceptance at our hands since that was not the case of the petitioner which was resisted before the KSAT. It is not the case of the Government that, one of the parameters of the Government Order issued post ***Umadevi*** (*supra*), the petitioner was sent home because no work was available. It is the specific case of the petitioner that, he was sent home because he attained the age of superannuation after putting in 42 years of spotless service. Therefore, when the blood and sweat of a citizen are given to the State, the argument that only for the sanctioned post, the decision in ***Umadevi*** (*supra*) is available hardly avails as a ground to deny relief to persons of the kind. It was **Oliver Wendell Holmes** who, a century ago said in ***Davis vs. Mills, 194 U.S. 451 (1904)*** "*Constitutions are intended to preserve practical and substantial rights, not to maintain*



theories...". All this is not treated by the KSAT in the right perspective.

17. The KSAT took ***Umadevi*** (*supra*) as deadline of the law when living law was marching to ***M.L.Kesari's*** (*supra*) and after. Even this aspect has not been properly considered by the KSAT. Therefore, in the above circumstances, this petition succeeds and impugned order of KSAT is hereby quashed. Petitioner's Application No.5053/2021 is favoured. Further, the respondents are directed to regularize (not just considering the case for regularization) services of the petitioner with retrospective effect from 01.11.1993 and grant all consequential benefits such as promotion, pension, so also with all monetary benefits etc., within an outer limit of three months from today, failing which, delay will attract interest at the rate of 1% for the first month and 2% from the next following. Interest component may be recovered from the concerned erring officials of the respondents.



18. The respondents shall submit compliance report to the Registrar General of this Court in time.

Costs made easy.

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

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

SK, List No.: 1 SI No.: 28