



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. 4696 OF 2022 (S-KSAT)

BETWEEN:

SRI. P. SHIVANNA,
AGED ABOUT 64 YEARS,
S/O LATE PUTTAPPA,
RETIRED TAHASILDAR,
R/AT NO.2045, 7TH MAIN, D BLOCK,
3RD CROSS, 2ND STAGE, RAJAJINAGAR,
BENGALURU 560 010.

...PETITIONER

(BY SRI. U PANDURANGA NAYAK.,ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT (SERVICE-3)
M.S. BUILDING, BENGALURU - 560 001.
2. THE ACCOUNTANT GENERAL (A & E)
KARNATAKA, BENGALURU.
P.B. NO.5329, ANNEXE BUILDING,
PARK HOUSE ROAD, BENGALURU - 560 001.
3. THE DEPUTY COMMISSIONER
CHIKKAMAGALURU DISTRICT,
CHIKKAMAGALURU - 577 101.

...RESPONDENTS

(BY SRI.B J ESWARAPPA.,AGA)

Digitally
signed by
CHETAN B C
Location:
HIGH COURT
OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ALLOW THE APPLICATION No.3459/2021 BY SET-ASIDING THE ORDER DATED 18.01.2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BENGALURU VIDE ANNEXURE-A

THIS WRIT PETITION, COMING ON FOR FINAL HEARING, 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)

Petitioner is knocking at the doors of Writ Court for assailing Karnataka State Administrative Tribunal's order dated 18.01.2022 whereby, his Application No.3459/2021 having been dismissed, the order of punishment of withholding his pension for a period of two years has been confirmed.

2. Learned counsel appearing for the petitioner vehemently submits that the Tribunal grossly erred in not duly considering competence of the Disciplinary Authority to institute proceedings post-retirement for an event of pre-superannuation; even otherwise, withholding of



pension by way of recovery or otherwise is not permissible in view of Apex Court decision in ***STATE OF PUNJAB vs. RAFIQ MASIH¹***. Learned AGA appearing for the official respondents makes submission in justification of the impugned order and the reasons on which it has been constructed. He relies upon a Coordinate Bench decision in W.P.No.8296/2023 between *SRI.BASAVARAJ MENASHINAKAI vs. STATE OF KARNATAKA*, disposed off on 19.11.2024, one of us being author of the said judgment.

3. Having heard the learned counsel for the parties and having perused the Petition Papers, we decline indulgence in the matter broadly agreeing with the submission of learned AGA which accords with the reasoning of the Tribunal. As to competence of initiating disciplinary enquiry post-retirement, matter is no longer *res integra*. Rule 214(1)(a) of KCSR reads as under:

¹ AIR 2015 SC 696



"Withholding or withdrawing pension for misconduct or negligence.-

The Government reserve to themselves the right of either withholding or withdrawing a pension or part thereof, either permanently or for a specified period, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including the service under a foreign employer and the service rendered upon re-employment after retirement."

Even in respect of an event that happened during employment of a delinquent, there can be disciplinary enquiry post-retirement provided that it is within the limitation period of four years. Obviously, the incident on the basis of which disciplinary proceedings are initiated falls within that period. Therefore, the question as to competence of holding disciplinary enquiry post-retirement is answered in the affirmative and against the petitioner.

4. The second contention of learned counsel for the petitioner that pension cannot be withheld or that no recovery can be made from the pension of a retiree, cannot be sustained. If there can be disciplinary enquiry against a retiree, there can be recovery by way of



punishment, from the pension also. In *Basavaraj Menashinakai supra*, this court has taken the view that the definition of pension includes DCRG and therefore, even recovery can be made from DCRG. The reliance of petitioner on *Rafiq Masih supra* is misplaced, since it was a case relating to recovery of what was paid in excess of entitlement. What weighed with the Apex Court in the said decision was the predicament of lower strata employees, against whom no fraud, fabrication or such other misconduct was alleged. It hardly needs to be stated that a case is an authority for the proposition that it actually lays down in the given fact matrix of the case and not for all that which would logically follow from what has been so laid down vide **QUINN vs. LEATHEM**².

5. Learned AGA appearing for the respondents is right in telling us that the disciplinary proceedings having been competently and properly held, with the participation of the petitioner, the order of punishment has been rightly

² [1901] A.C. 495



made and therefore, this court exercising extraordinary supervisory jurisdiction under Article 227 of the Constitution of India cannot undertake a deeper examination, as a general rule of prudence. We need not tell that this court is not sitting in appeal over the decision of Tribunal or the punishment order of the Disciplinary Authority.

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

cbc
List No.: 1 Sl No.: 21