



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 1953 OF 2021 (S-KSAT)

BETWEEN:

1. SRI. RAMESH
S/O LATE DODDANANJAPPA
AGED ABOUT 61 YEARS
SECOND DIVISION SURVEYOR
(UNDER ORDER OF DISCHARGE)
O/O THE ASSISTANT DIRECTOR OF
LAND RECORDS, TUMKUR
MINI VIDHANA SOUDHA
TUMKUR DISTRICT
R/AT ANJAPPA HESARAHALLI
GUBBI TALUK
TUMKUR DISTRICT-572 223

1(A). SMT. GOWRAMMA N
W/O LATE SRI. RAMESH
AGED ABOUT 58 YEARS
R/AT 1ST CROSS, VINAYAKA NAGAR
RAILWAY STATION ROAD
GUBBI (RURAL), SINGONAHALLI
TUMKUR, PIN CODE:572 216

1(B). SMT. SNEHA H.R
D/O LATE SRI. RAMESH
AGED ABOUT 28 YEARS
R/AT YALADADLU
TUMKUR TALUK, KORA HOBLI
HALDODDERI
TUMKUR DISTRICT-572 128



1(C). MISS. SAHANA H.R
D/O LATE SRI. RAMESH
AGED ABOUT 24 YEARS
R/AT RANGANATHAPURA
KASABA HOBLI, LAKKENEHALLI POST
GUBBI TALUK
TUMKUR DISTRICT-572 216

...PETITIONERS

(BY SRI. VIJAYA KUMAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
REVENUE DEPARTMENT
M.S.BUILDING
BENGALURU-560 001
2. THE COMMISSIONER
SURVEY SETTLEMENT AND LAND RECORDS
SESHADRI ROAD
BENGALURU-560 001
3. THE DEPUTY COMMISSIONER
TUMKUR
TUMKUR DISTRICT-572 101
4. THE ASSISTANT DIRECTOR OF
LAND RECORDS, TUMKUR
TUMKRU DISTRICT-572 101

...RESPONDENTS

(BY SRI. B.J. ESWARAPPA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DTD 02.09.2020 PASSED IN APPLICATION NO.2452/2020 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL VIDE ANNEX-A AND ALLOW THE APPLICATION AS PRAYED FOR.



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 RAMACHANDRA D. HUDDAR)

Original writ petitioner by name Ramesh S/o late Doddananjappa had filed this petition under Articles 226 and 227 of the Constitution of India challenging the correctness and legality of the order dated 02.09.2020 passed by the Karnataka State Administrative Tribunal, Bengaluru (in short `the Tribunal') in Application No.2452/2020. The Tribunal, by the impugned order declined to interfere with the petitioner's challenge to the discharge order dated 12.6.2020 passed by respondent no.2 under Rule 6 of the Karnataka Civil Services (Probation) Rules, 1977 (in short `the Rules') discharging the petitioner from services during his probationary period.



2. The records of this petition reveal that during the pendency of this writ petition, original petitioner died and his legal heirs are brought on record as petitioner no.1(a) to (c), accordingly cause title came to be amended. Now the original petitioner's legal heirs named in the cause title are prosecuting this petition.

Facts of the case:

3. It is the case of the original petitioner, that he was initially appointed to the post of Second Division Surveyor on 22.12.1994. His service from the initial appointment, remained under probation. However, his probation was never declared as satisfactory nor was he confirmed in the post. Over the course of years, certain concerns regarding his regularity and conduct surfaced, notably his unauthorized absence from duties on several occasions. Owing to repeated absenteeism, the appointing authority undertook a preliminary enquiry to assess whether the petitioner's service was suitable for confirmation. The findings of the said preliminary enquiry



indicated that the petitioner was not fit to be continued in service as his conduct was found incompatible with the standards expected of a Government Servant. Thereafter, the appointing authority by invoking the provisions of Rule 6 of the Karnataka Civil Services (Probation) Rules, 1977 (hereinafter referred to as 'Probation Rules'), the respondent authority issued the discharge order dated 12.6.2020.

4. It is the case of the original petitioner that, being aggrieved by the same, he approached the Tribunal by contending that, his discharge was not a mere discharge simplicitor, but, rather a punitive termination in the garb of a discharge for unsuitability. The Tribunal however, found no merit in the petitioner's case and upheld the action of respondent-authority.

Submission of the counsel for the petitioner:

5. The learned counsel for the petitioners, Sri Vijayakumar would submit that, the discharge order



was not a simple administrative decision arising out of assessment of suitability but, amounted to a stigmatic order. He would point out that, the language employed in the impugned discharge order refers to "*conduct unbecoming of a Government servant*" and indicates finding of guilt, thereby, it attracted Rule 7 of the Probation Rules. He would further urge that, once the discharge is based on alleged misconduct, even during probation, a formal disciplinary enquiry as mandated under the Karnataka Civil Services (Classification, control and Appeal) Rules, 1957 must be conducted. The absence of such an enquiry vitiates the impugned order. He would further urge that, the Tribunal has erred in distinguishing the precedents relied upon by the petitioner, particularly in the cases of ***Jaswantsingh Pratapsingh Jadeja v. Rajkot Municipal Corporation & Another*** reported in ***(2007) 10 SCC 71*** and ***Nehru Yuva Kendra Sangathan v. Mehbub Alam Laskar*** reported in ***(2008) 2 SCC 479*** which laid down the principle that, the discharge orders camouflaging punitive motives must be struck down.



6. Lastly, the learned counsel Sri Vijayakumar would contend that the inordinate delay of more than 15 years in issuing the discharge order is arbitrary and violative of principles of natural justice. According to his submission, such a delay inherently renders the action bad in law.

Submission of counsel for the respondents:

7. Per contra, the learned Government Advocate Sri B. J. Eshwarappa appearing on behalf of the respondents defended the order passed by the Tribunal and the underlying discharge order. He would submit that, the original petitioner, being a probationer whose services were never confirmed continued to hold the post at the pleasure of the appointing authority. He would further submit that the discharge according to the respondents was based not on any specific act of misconduct but, on the cumulative evaluation of the petitioner's service which reflected unreliability, irregularity and lack of discipline - qualities incompatible with a Government Servant's rule.



8. The learned AGA would further submit that, rule 6 of the Probation rules, specifically permits discharge of a probationer on the ground of unsuitability without necessity of holding a full -pledged enquiry. The preliminary enquiry in the instant case was conducted merely to form an opinion on the petitioner's fitness and not with the object of imposing penalty. He emphasized that, the order under challenge does not contain any finding of guilt or imputation of moral turpitude. Hence, he would submit that, the contention of stigma as argued by the petitioner's counsel is misconceived. Hence, he prays to dismiss the petition.

9. We have given our anxious consideration to the arguments of both the side and perused the records.

10. In view of submissions of both the side, the pints that are to be decided in this petition are:

- (i) Whether the discharge of the petitioner, during the probation period under Rule 6



of the Probation Rules is a discharge simplicitor or a punitive termination?

- (ii) Whether the impugned discharge order suffers from any legal infirmity on the ground of stigma?
- (iii) Whether the delay in issuing the discharge order initiates the proceedings?

Point nos. 1 to 3 are discussed together:

11. The fundamental distinction in service law is, between a discharge simplicitor and a punitive termination. The former is an administrative decision taken based on assessment of overall suitability during probation. The latter, on the other hand results from misconduct and entails civil consequences requiring a formal enquiry in accordance with the principles of natural justice.

12. The impugned discharge order in the present case refers to the petitioner being "unfit for the post" and



having shown "conduct unbecoming of a Government Servant". Though these expressions may appear critical, it is now settled law that, unless an order expressly attributes guilt or infers moral turpitude, it does not become stigmatic. In ***Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences & Another*** reported in, **(2002) 1 SCC 520** the Apex Court has held that:

"References to unsatisfactory work and conduct" do not render a discharge stigmatic unless the order is founded on allegations that necessitate a disciplinary proceeding."

13. In the present case, the remarks in the discharge order are part of an administrative evaluation of the petitioner's suitability based on consistent absenteeism and disregard for duty norms rather than an attribution of misconduct *per se*. Hence, the discharge cannot be categorized as stigmatic. Further, no reasons are assigned for the said absence. Unauthorized absence from duty amounts to failure of devotion to duty or behavior



unbecoming of a Government servant cannot be decided without deciding the question whether the absence is willful or because of compelling circumstances. The law says that, if the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful. But, absence from duty without any application or prior permission may amount to unauthorized absence, but, it does not always mean willful. No compelling circumstances are shown by the original petitioner to remain absent from duties. Hence, the discharge cannot be categorized as stigmatic.

14. Rule 6-b of the Probation Rules, permits the discharge of a probationer without resorting to procedural rigors of disciplinary rules provided the discharge is based on unsuitability. Rule 7 which incorporates the CCA Rules, applies only where termination is proposed on the ground of misconduct. The learned Tribunal rightly found that, the petitioner's repeated unauthorized absence was not



treated as an independent misconduct warranting penalty, but, as a reflection of unfitness for regularization. A preliminary enquiry was undertaken only to ascertain whether the petitioner's conduct during probation demonstrates straits meriting confirmation. He remained absent without any authorization for the period commencing between 4.8.1999 to 11.11.1999.

15. In ***State of U.P. v. Akbar Ali Khan***, reported in ***AIR 1966 SC 1842***, the Apex Court upheld a similar discharge order during probation by holding that, enquiry for suitability does not convert administrative action into punitive proceedings. Therefore, we are of considered view that, there are no reasons to interfere with the Tribunal's conclusion that Rule 6 was rightly invoked and Rule 7 was not attracted in the facts and circumstances of the case. Though the learned counsel for the petitioner places reliance on the ***Jaswantsingh supra***, it has no application to the facts of the case. So also, ***Nehru Yuva Kendra Sangathan supra***. In both the cases, the impugned orders



contained specific allegations of misconduct and accordingly, orders were passed after a fact finding exercise resembling a disciplinary enquiry. Here in the instant case, the enquiry was merely preliminary and confined to evaluating the probationer's record. No formal charge was served: nor was there any finding of guilt. Thus, the present case therefore, falls outside the ambit of the aforementioned decisions of the Supreme Court relied upon by the counsel for the petitioner.

16. The argument of the counsel for the petitioner is based on delay, but, this does not carry much weight. The petitioner remained on probation throughout and no right accrued in terms of regularization or confirmation. In ***D.A. Lyall v. The Chief Conservator of Forests, U.P.***, in ***Civil Appeal No.259 of 1963*** decided on 24.02.1965, it is held that, 'a probationer has no right to hold the post unless confirmed'. More over, the delay in finalizing a decision on probation does not *if so facto* render the action



arbitrary, unless *mala fides* or prejudice is demonstrated. In this case, neither of which is present.

17. The contention regarding belated submission of medical certificates justifying the petitioner's absence was rightly discarded by the Tribunal. These were not submitted at the relevant time and such a production at a belated stage appear to be an after-thought. Thus, upon a thorough examination of the records, pleadings, submissions and precedents, we are of the considered view that the discharge of the petitioner during probation under Rules was lawful, non-stigmatic and not in violation of any procedural mandate. The Tribunal has rendered a well-reasoned order warranting no interference under Articles 226 and 227 of the Constitution. Resultantly, we pass the following:



ORDER

- (i) The Writ Petition is ***dismissed***.
- (ii) The order dated 02.09.2020 passed by the Tribunal in Application No.2452/2020 is upheld.
- (iii) Costs made easy.

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

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

SK
List No.: 1 Sl No.: 20