



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH 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. 19037 OF 2024 (S-KSAT)

C/W

WRIT PETITION NO. 18725 OF 2024 (S-KSAT)

WRIT PETITION NO. 19263 OF 2024 (S-KSAT)

IN WP No. 19037/2024:

BETWEEN:

DR. SATHYANARAYANA GOWDA V,
S/O LATE VENKATESH GOWDA V,
AGED ABOUT 54 YEARS,
WORKING AS ASSISTANT PROFESSOR,
GOVERNMENT FIRST GRADE COLLEGE,
DODDABALLAPURA,
BENGALURU RURAL DISTRICT 561 203.
R/O NO 872, 13TH B MAIN, GKVK POST,
JUDICIAL LAYOUT, BENGALURU 560 065.

...PETITIONER

(BY SRI. NARAYANA BHAT M., ADVOCATE A/W
SRI.VARUN GOWDA.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HIGHER EDUCATION,
MS BUILDING, BENGALURU 560 001.
2. THE COMMISSIONER,
DEPARTMENT OF COLLEGIATE AND
TECHNICAL EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SHESHADRI ROAD, BENGALURU 560 001.

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Location: HIGH
COURT OF
KARNATAKA



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3. THE CHIEF ADMINISTRATIVE OFFICER
OFFICE OF THE COMMISSIONER OF
COLLEGIATE EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SESHADRI ROAD, BENGALURU 560 001.

4. UNIVERSITY GRANTS COMMISSION
REP BY ITS CHAIRMAN,
BAHADUR SHAH ZAFAR MARG,
NEW DELHI - 110 002.

...RESPONDENTS

(BY SRI.VIKAS ROJPURA.,AGA FOR R1 TO R3;
SRI.H R SHOWRI., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE A WRIT OF CERTIORARI QUASHING/ SETTING ASIDE
THE IMPUGNED ORDER DATED 12.06.2024 AT ANNEXURE-A
PASSED BY THE HON'BLE KSAT IN A.No-149/2024 AND ETC.,

IN WP NO. 18725/2024:

BETWEEN:

DR. DEEPTHI S
W/O SRI PRASHANT G,
AGED ABOUT 49 YEARS,
WORKING AS ASSISTANT PROFESSOR,
GOVERNMENT FIRST GRADE COLLEGE,
CHANNAPATNA-562 160.
R/O NO.201, NAKSHATRA LAKE VIEW APARTMENTS,
SUBHASH NAGAR, KENGERI SATELLITE TOWN,
KENGERI-560 060.

...PETITIONER

(BY SRI. NARAYANA BHAT M., ADVOCATE A/W
SRI. VARUN GOWDA.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HIGHER EDUCATION,
M.S.BUILDING, BENGALURU-560 001.



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2. THE COMMISSIONER
DEPARTMENT OF COLLEGIATE &
TECHNICAL EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SESHADRI ROAD, BENGALURU-560 001.
3. THE CHIEF ADMINISTRATIVE OFFICER
OFFICE OF THE COMMISSIONER OF
COLLEGIATE EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SESHADRI ROAD, BENGALURU-560 001.
4. UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG,
NEW DELHI – 110 002.
AMENDED V.C.O DATED 28.08.2024.

...RESPONDENTS

(BY SRI.VIKAS ROJIPUAR.,AGA FOR R1 TO R3;
SRI.H R SHOWR., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I) ISSUE A WRIT OF CERTIORARI QUASHING/SETTING ASIDE THE IMPUGNED ORDER DATED 12/06/2024 AT ANNEXURE-A PASSED BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL IN APPLICATION NO.171/2024 AND ETC.,

IN WP NO. 19263/2024:

BETWEEN:

DR. RAJASHEKAR M YARBAGI
S/O MAHADEVAPPA YARBAGI,
AGED ABOUT 44 YEARS,
WORKING AS ASSISTANT PROFESSOR,
GOVERNMENT FIRST GRADE COLLEGE,
HUMNABAD, BIDAR DISTRICT,
R/O NO.3/84, NEAR BUS STOP, OKALI POST,
KAMLAPUR TALUK, KALBURGI DISTRICT-585 313.

...PETITIONER

(BY SRI. NARAYANA BHAT M., ADVOCATE A/W
SRI. VARUN GOWDA.,ADVOCATE)



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AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HIGHER EDUCATION,
M.S.BUILDING, BENGALURU-560 001.
2. THE COMMISSIONER
DEPARTMENT OF COLLEGIATE &
TECHNICAL EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SESHADRI ROAD, BENGALURU-560 001.
3. THE CHIEF ADMINISTRATIVE OFFICER
OFFICE OF THE COMMISSIONER OF
COLLEGIATE EDUCATION,
UNNATHA SHIKSHANA SOUDHA,
SESHADRI ROAD, BENGALURU-560 001.
4. UNIVERSITY GRANTS COMMISSION,
REP BY ITS CHAIRMAN,
BAHADUR SHAH ZAFAR MARG,
NEW DELHI – 110 002.
AMENDED V.C.O DATED 28.08.2024

...RESPONDENTS

(BY SRI.VIKAS ROJIPURA.,AGA FOR R1 TO R3;
SRI.H R SHOWRI., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE A WRIT OF CERTIORARI QUASHING/ SETTING
ASIDE THE IMPUGNED ORDER DATED 12.06.2024 AT
ANNEXURE-A PASSED BY THE HON'BLE KSAT IN A.No-
76/2024 AND ETC.,

THESE PETITIONS 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



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ORAL ORDER

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

All these petitions seek to assail State Administrative Tribunal's orders whereby subject Applications having been negatived, relief is denied to the petitioners in the matter of granting promotion under Carrier Advancement Scheme promulgated by extant UGC Regulations.

2. Learned counsel appearing for the petitioners would submit that, under the provisions of UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018, there is no provision for conducting interview and thereby ascertaining performance appraisal of the candidates, for the purpose of granting CAS benefits; the very head of the institution has submitted the papers recommending the case of petitioners for the grant of such benefit, which does not depend upon availability of post or vacancy; the very approach of the



answering respondents being legally & factually flawsome, the Tribunal grossly erred in denying relief to the petitioners.

3. Learned AGA appearing for the official respondents vehemently opposes the petitions making submission in justification of Tribunal's orders and the reasons on which they have been constructed. He submits that there is no prohibition for conducting interview of the kind for the performance appraisal; even otherwise, Petitioners have not satisfied the required conditions for being entitled to the grant of CAS Promotion, which is discretionary. Lastly he contended that the Tribunal having considered all aspects of the matter in the right perspective, has denied relief to the Petitioners and therefore interference of this court is not warranted.

4. Having heard the learned counsel for the parties and having perused the petition papers, we are inclined to grant indulgence in the matter as under and for the following reasons:



4.1 Regulation 6.4 of extant UGC Regulations provides for grant of promotion in the form of career advancement in favour of college teachers ie., Assistant Professors (Selection Grade/Academic Level 12) as Associate Professor (Academic Level 13A). The eligibility is prescribed as under:

"i) Assistant Professor who has completed three years of service in Academic Level 12/Selection-Grade.

ii) A Ph.D. degree in subject relevant/allied/relevant discipline.

iii) Any one of the following during the last three years: completed one course/programme from amongst the categories of Refresher Courses/ Methodology Workshop/Syllabus Up-gradation Workshop/ Teaching-Learning-Evaluation Technology Programme/ Faculty Development Programme of at least two weeks (ten days) duration (or completed two courses of at least one week (five days) duration in lieu of every single course/programme of at least two weeks (ten days) duration); or completed one MOOC's course (with e-certification); or contribution towards development of e-contents in 4-quadrant (at least one quadrant) minimum of 10 modules of a course/contribution towards development of at least 10 modules of MOOC's course/ contribution towards conduct of a MOOC's course during the period of assessment."



Of course the CAS Promotion criteria is also prescribed and there is a Selection Committee, is true. However Regulations do not provide for any interview for the purpose of doing performance appraisal. The Committee has to recommend the candidate for promotion to the post of Associate Professor, is also true. That *per se* does not authorize conducting of interview. Once all the papers are sent by the head of the institution with his opinion, the Committee has to examine the papers to ascertain sustainability of the said opinion and nothing beyond. In the instant case the head of the institution did that exercise, is not in dispute.

4.2 It is very relevant to see that the criteria for the grant of CAS Promotion to the Deputy Librarians from Academic Level 13A to Academic Level 14, interview is provided for doing their performance appraisal. The said provision which Petitioners advocates heavily bank upon reads:



*"The promotion is recommended by a Selection Committee constituted as per these Regulations on the basis of the **interview performance**".*
(emphasis supplied)

This is where the maxim *Expressio Unius Est Exclusio Alterius* becomes invocable. In 'Maxwell on The Interpretation of Statutes' , at page 293, it is written as under:-

*"By the rule usually known in the form of this Latin maxim, mention of one or more things of a particular class may be regarded as silently excluding all other members of the class: *expressum facit cessare tacitum*. Further, where a statute uses two words or expressions, one of which generally includes the other, the more general term is taken in a sense excluding the less general one: otherwise there would have been little point in using the latter as well as the former."*

If the rule maker intended that there should be interview for Assistant Professors also, he would have duplicated similar provision under the relevant Regulation. But that is not the case.

4.3 Learned counsel for the petitioners are also right in drawing attention of the court to paragraph 9 of the Reply



Statement filed by the official Respondents before the Tribunal. The same reads as under:

"9. It is submitted that the selection committee assessed the performance of the applicant by interviewing him and awarded the blow cited marks for interview performance assessment.

Weightage Marks	Marks awarded
No. of Research papers (05 marks)	1.75
Quality of Research Publications (05 marks)	2.25
Pedagogical/Presentation Skills (05 marks)	2.25
Domain/subject knowledge (05 marks)	2.25
(Minimum 50% required for promotion) Total	8.50
Recommendation of the selection committee for the promotion of the applicant under CAS (Recommendation/not recommended)	Not Recommended

It has long been settled position of law that a natural person can do all that is not prohibited by law whereas a juristic person like the respondent –Corpn. can do only that which is provided by law, expressly or by necessary implication; the Division Bench of Hon’ble High Court of Calcutta in the case of **SATIBHUSHAN MUKHERJEE Vs.**



CORPORATION OF CALCUTTA, AIR (36) 1949 CAL 20

at para 10 observed as under:

"10..... There is a fundamental distinction between the capacity of a natural person and of an artificial person which has been created by Statute or Charter. To a natural person whatever is not expressly forbidden by the law is permitted by the law. He has the capacity to do everything save and except those forbidden by law. In the case of an artificial person-e.g., a corporation, which can be created either by charter or by statute the rule applicable to a natural person is reversed. Whatever is not permitted expressly or by necessary implication by the constituting instrument is prohibited not by any express or implied prohibition of the legislature but by the doctrine of ultra vires. This fundamental principle has been laid down in many cases.....;"

It hardly needs to be mentioned that the Selection Committee functions as a legal person in the Scheme of UGC Regulations and therefore it cannot invent what is not provided in the said instrument of law. Added, the normative basis for assessment & awarding of marks is also militantly lacking.

4.4 All the above factors, as rightly submitted by learned advocates appearing for the Petitioners, have been lost



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sight of by the Tribunal and therefore the impugned orders suffer from errors apparent on their faces warranting interference of this court for setting the injustice at naught. We need to mention that when litigants come before court or Tribunal, it is not with joy at heart; they knock at the doors of designated Forum for tapping justice, of course in accordance with law. They cannot be turned back empty handed, by quoting some jurisprudential theories. Courts & Tribunals are established for granting redressal to the genuine grievance aired in accordance with law.

In the above circumstances, these petitions are allowed; a Writ of Certiorari issues quashing the impugned orders of Tribunal. Application No.149/2024 filed by Petitioner Sri Sathyanarayana Gowda.V., Application No.171/2024 filed by Petitioner Dr.Deepti.S. and Application No.76/2024 filed by Petitioner Dr.Rajashekar M.Yarbagi having been favoured, the impugned endorsement therein are quashed. A Writ of Mandamus



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issues to reconsider candidature of Petitioners for grant of CAS Promotion *sans* interview process in accordance with UGC Regulations with retrospective effect i.e., from the date all similarly circumstanced candidates have been accorded such promotion and also to grant all consequential benefits. Time for compliance is three months and delay if brooked shall be viewed seriously.

Now, no costs.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

Snb
List No.: 1 Sl No.: 2