



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 52114 OF 2019 (S-RES)

BETWEEN:

SRI. CHANDRASHEKHAR
S/O SHIVARAJ
AGED ABOUT 29 YEARS
EARLIER WORKED AS
JUNIOR ASSISTANT IN
BANGALORE ELECTRIC SERVICE
COMPANY LTD., (BESCOM), BANGALORE
NOW WORKING AS PANCHAYATH
DEVELOPMENT OFFICER (PDO)
AT VILLAGE PANCHAYATH
SHIRALI-581354
BHATKAL TALUK, KARWAR DISTRICT.

...PETITIONER

(BY SRI. SHREEDHAR G BIDRE, ADVOCATE FOR
SRI. RAGHAVENDRA G GAYATRI., ADVOCATE)

AND:

Digitally signed by
HEMALATHA A
Location: HIGH
COURT OF
KARNATAKA

1. THE BANGALORE ELECTRICITY
SUPPLY COMPANY (BESCOM)
REP. BY ITS MANAGING DIRECTOR
K R CIRCLE, BANGALORE-560001.
2. THE GENERAL MANAGER
(ADMINISTRATIVE AND HUMAN RESOURCES DEVELOPMENT),
BESCOM, K R CIRCLE
BANGALORE-560001.
3. THE SUPERINTENDENT ENGINEER (BESCOM)
RAMANAGAR RANGE, TTMC BUILDING
KENGRI, BANGALORE-560060.

...RESPONDENTS

(BY SRI. B L SANJEEV., ADVOCATE FOR R1 TO R3)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 16.09.2019 ISSUED BY THE R-3 AND ORDER DATED 04.09.2019 AND DATED 10.01.2019 ISSUED BY THE R-2 PRODUCED AS ANNEXURE-A, B AND C RESPECTIVELY AS ILLEGAL, ARBITRARY AND UNLAWFUL 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 H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed under Articles 226 & 227 of the Constitution of India, challenging the endorsement dated 16.09.2019 issued by the third respondent, orders dated 04.09.2019 and 10.01.2019 issued vide Annexures-A, B and C, respectively.

2. The case of the petitioner is that, he was appointed as a Junior Assistant in the third respondent - Board. While he was in service, after taking permission from the respondent - Board, vide Annexure-E dated 28.09.2016, he had applied to the post of Panchayat Development Officer (PDO). Thereafter, he has been appointed as a PDO at Shirali Gram Panchayat, Bhatkal Taluk, vide Annexure-F dated 19.05.2018. Before confirmation of his probationary period, the petitioner



submitted a representation vide Annexure-K dated 29.09.2018 to the first respondent – Board seeking permission to rejoin in the respondent – Board as Junior Assistant. The petitioner's request has been rejected by the impugned endorsement vide Annexure-A. Being aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner raised the following contentions:

(i) Firstly, the petitioner has taken permission from the third respondent to apply to the post of PDO. After obtaining the permission, he had applied to that post and he was appointed as a PDO vide Annexure-F. As per Regulation 19(f) Note (2) of the Karnataka Electricity Board Employees' Service Regulations (for short, 'Regulations'), till his probationary is declared in another appointment, his lien in the Board will continue.

(ii) Secondly, since, before his probationary period was declared in Panchayath Raj Department, he has requested the Board to re-join to the post of Junior



Assistant, he is entitled for all the service benefits in the Board as per Regulation 189(a) and (b) of the Regulations. Contrary to the Regulations, the impugned endorsement has been issued.

(iii) Thirdly, similar provisions are in KCSRs., i.e., Rule 252(b) and Rule 20(f) Note 4. The said provisions have been considered by this Court. To that effect, he has produced the order passed by this Court in W.P.No. 8136/2020 disposed of on 13.10.2020 and also judgment of the Apex Court in the case of **L.R.PATIL vs. GULBARGA UNIVERSITY, GULBARGA** reported in **2023 Live Law (SC) 748.**

(iv) Fourthly, even the employees of the Board, who are appointed, after taking permission, if they are appointed in any government service, before probationary period is declared, under the aforesaid Regulations, they can seek for re-joining in the Board and they are also entitled for service benefits. Hence, he sought to allow the writ petition.



4. Per contra, the learned counsel appearing for the respondents raised the following contentions:

(i) Firstly, once the petitioner submits a resignation, which has been accepted by the Board, he cannot seek over the lien and the post held in the board.

(ii) Secondly, any Board employee, if he resigns, after taking permission, only for an appointment to another post in the Board, that case can be considered for re-appointment under 189(b)(i). The petitioner was appointed in Panchayath Raj Department, he cannot seek benefit under 189(b)(i). Hence, he sought for dismissal of the writ petition.

5. Heard the learned counsel for the parties. Perused the petition papers.

6. It is not in dispute that the petitioner was appointed as a Junior Assistant by the respondent – Board. On the notification issued by Panchayath Raj Department to fill up the posts of PDO, petitioner was one of the



applicants. Before filing an application, the petitioner has sought permission from the Board to file an application. As per Annexure E dated 28.09.2016, the Board has given permission to the petitioner to file an application to the post of PDO. The petitioner was appointed as PDO at Shirali Grama Panchayat, Bhatkal vide Annexure-F dated 19.05.2018, on a probationary period of two years. Before declaration of the probationary period, the petitioner submitted a representation vide Annexure-K seeking permission to re-join to the post of Junior Assistant.

7. As per the Regulation 19 (f) Note (2), it is very clear that, even though if an employee resigned the service in the board to take another appointment, till declaration of his probationary period, his lien will continue in the Board service. Regulation 19(f) Note (2) is extracted below:

"(2) The lien of an employee cannot be suspended while he is on probation in another post. If the employee completes the period of probation satisfactorily, suspension of lien may be made with



retrospective effect from the date on which the employee was transferred to the post provided that the conditions in sub-regulation (b) above are otherwise satisfied."

8. As per Regulation 189(b)(i) of the Regulations, if any employee of the Board, after taking proper permission for another appointment, comes back to the service before declaration of probationary period in the other department, his service counts in the Board service. The relevant regulation is extracted below:

"189 (b)(i) Resignation of an appointment, permanent or temporary, to take up with proper permission, of on regular relief another appointment, whether permanent or temporary, service in which also counts in full or in part, is not a resignation of Board service."

9. A similar provision is traceable in KCSRs. Rule 252(b) of KCSRs. And Rule 20(f) Note (4) are extracted below:

"252(b): Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary,



service in which counts in full or in part, is not a resignation of public service."

Rule 20 Note 4 – When a Government servant who has secured employment in one Department of Government under the rules of recruitment, seeks employment on his own accord in another unit or Department or in another cadre or grade in the same Department, his lien on the original appointment shall be continued to be maintained provided he has already been confirmed in the post till he is permanently absorbed in the Department or cadre in which he is newly appointed and he shall be given the benefit of the past service for purposes of leave and pension. If, however, he is temporary in the first appointment, he will cease to have any connection with his old appointment but he shall be given only the benefit of the past service for leave and pension."

10. This Court as well as the Apex Court has considered the above provision in WP No.8136/2020 and in the case of **L.R.PATIL (supra)**. After considering the similar provision in W.P.No.8136/2020, in similar set of facts, the employee of Sanjay Gandhi Institute of Trauma and Orthopedics, after obtaining NOC, appointed as



Associated Professor in AIIMS, Mangalagiri, wherein this Court held as follows:

"14. The issue involved in this writ petition is, whether petitioner can retain lien over the original appointment after she resigns from the post and secures another appointment. Before answering this issue, it is necessary to reproduce the relevant provisions of Rules 8(26), 19, 20 and 252(b) of KCS Rules.

15. Rule 8(26) of KCSR which defines "LIEN" reads as follows:

"Lien" means the title of a Government servant to hold Termination of service and resignation tentatively, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively:

[Note.- Government may permit a Government servant to retain a lien on a temporary appointment in special cases, such as absence on study or training outside India. Attention is also invited to [Note 4 under clause (f) of Rule 20] and to Rule 423]."

[PART II

Pay and Allowance

CHAPTER II

General Conditions of Service



12. xxxxxxxx

13. xxxxxxxx

14. xxxxxxxx

15. xxxxxxxx

16. xxxxxxxx

*General Rules regarding lien on appointment
and admissibility of allowances.*

17. xxxxxxxx

18. xxxxxxxx

*19. Unless his lien is suspended under Rule
20, a Government servant holding substantively a
permanent post retains a lien on that post.-*

(a) while performing the duties of that post;

*(b) while on foreign service, or holding a
temporary post or officiating in another post;*

*(c) during joining time on transfer to another
post; unless he is transferred substantively to a
post on lower pay, in which case his lien is
transferred to the new post from the date on which
he is relieved of his duties in the old post;*

(d) while on leave;

(e) while under suspension.

Rule 20 of KCS Rules reads as follows:

*"20.(a) Government [shall] suspend the lien
of a Government servant on a permanent post*



which he holds substantively if he is appointed in a substantive capacity-

(1) to a tenure post, or

[(2)] xxxxxx]

(3) xxxxxx

(b) xxxxxx

(c) xxxxxx

(d) xxxxxx

Note.- xxxxxx

(e) xxxxxx

(f) A Government servant's lien which has been suspended under clause (b), of this Rule shall revive as soon as he ceases to be on deputation outside the State of Karnataka or on foreign service or to hold a post referred to in clause (b) provided that a suspended lien shall not revive because the Government servant takes leave if there is reason to believe that he will, on return from leave, continue to be on deputation outside the State of Karnataka or on foreign service or to hold a post referred to in clause (b) and the total period of absence on duty will not fall short of three years or that he will hold substantively a post



of the nature specified in [sub-clause (1) or (3) of clause (a).

Note 1. - Only one provisionally substantive appointment is permissible against one post. A provisionally substantive appointment is permissible against a vacant permanent post.

Note 2. - The power to make provisionally permanent arrangements and to order suspension of lien is delegated to Heads of Department in the case of non-gazetted Government servants.

Note 3. - The lien of a Government servant cannot be suspended while he is on probation in another post. If the Government servant completes the period of probation satisfactorily, suspension of lien may be made with retrospective effect from the date on which the Government servant was transferred to other duty, provided that the conditions in clause (b) above are otherwise satisfied.

[Note 4. - When a Government servant who has secured employment in one Department of Government under the rules of recruitment, seeks employment on his own accord in another unit or Department or in another cadre or grade in the same Department, his lien on the original appointment shall be continued to be maintained provided he has already been confirmed in the post



till he is permanently absorbed in the Department or cadre in which he is newly appointed and he shall be given the benefit of the past service for purposes of leave and pension. If, however, he is temporary in the first appointment, he will cease, to have any connection with his old appointment but he shall be given only the benefit of the past service for leave and pension]

(g) (i) A Government servant's lien on a post may in no circumstances be terminated even with his consent if the result will be to leave him without a lien, or a suspended lien upon a permanent post.

[(ii) xxxxxx]

(h) xxxxxxxx

xxxxxxxxxxxxxx

Rule 252 of KCRS reads thus:

252 (a) xxxx.

[Note.- xxxx]

[(b) Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.]

[xxx]



[252-A. xxxx]"

16. 'LIEN' connotes the civil right of a Government Servant to hold the post to which he is appointed substantively . A reading of Note 4 of Rule 20 would indicate that the Government Servant shall continue to maintain his lien on the original appointment provided he has already been confirmed in the post till he is permanently absorbed in the Department or cadre in which he is newly appointed. Further, reading of Rule 20(g) of KCS Rules would indicate that government servant's lien on a post cannot be terminated even with his own consent under any circumstances. A Government Servant's lien on a post stands terminated only on his acquiring a lien on a permanent post outside the cadre on which he is borne.

17. Rule 252(b) of KCS Rules stipulates that the resignation to an appointment is not a resignation of public officer when a government servant takes up another appointment with proper permission.

18. In the case on hand, admittedly, the petitioner was working in a permanent post in the respondent No.2 - Institution and his appointment was in accordance with law. After obtaining No



Objection Certificate dated 16.5.2019 (Annexure-E) from the respondent No.2 – Institution, petitioner submitted an application for considering her appointment to the post of Associate Professor of Pathology at AIIMS, Mangalagiri. The application of the petitioner was considered and she was appointed as Associate Professor on 9.7.2019. Thereafter, she tendered resignation to the post of Assistant Professor on 16.7.2019 (Annexure-G) so as to enable her to report to duty as Associate Professor at AIIMS, Mangalagiri. Hence, the petitioner has taken another appointment after tendering resignation with proper permission as required under Rule 252(b) of the KCS Rules.

19. The next question for consideration is:

whether the petitioner was required to maintain lien over her original appointment at the time of tendering resignation or not?

20. Learned Senior counsel for the respondents No.2 and 3– Institution has relied upon the decision of the Division Bench of this Court in the case of Gulbarga University by its Registrar (supra), wherein it was held that the writ petitioner therein having not sought for permission to retain lien over the post cannot contend that he had lien over the earlier post by pressing into service Note-4



of Rule 20 of KCS Rules. The Apex Court in the case of State of Rajasthan Supra, while interpreting Rule 18 of Rajasthan Service Rules, which is similar to Rule 20(g) of KCSR, has held that Government Servant's lien on a post stands terminated only on his acquiring a lien on a permanent post outside the cadre on which he is borne and will not be terminated even with his consent under any circumstances. The decision rendered by the Division Bench without reference to Rule 20(g) of KCSR is not applicable to the case on hand. Hence, it is held that the petitioner was not required to seek permission to retain lien over the post held by her in the respondents No.2 and 3 - Institution at the time of tendering her resignation.

21. A reading of Rule 252(b) of KCS Rules would indicate that the resignation tendered with proper permission to take up another appointment does not amount to resignation. The petitioner in her resignation letter sought permission to resign from her earlier post so as to enable her to report to duty at AIIMS, Managalagiri. Hence, the resignation of the petitioner to the post of Assistant Professor in the respondents No.2 and 3 - Institution is not a resignation and the petitioner continues to maintain a lien over the said post till



she is permanently absorbed as Associate Professor at AIIMS, Mangalagiri.

22. The submission of the learned Senior counsel for respondents No.2 and 3 - Institution that Rules 19 &20 of KCS Rules are applicable or deals with only with matters pertaining to pay and allowances and not with appointment is not acceptable. Rules 17,18, 19 & 20 of KCS Rules are also applicable to lien on appointments as clearly stated in Part II Chapter II (General Rules regarding lien on Appointments and Admissibility of Allowances) of KCSR."

11. This order has been confirmed by a Division Bench of this Court in W.A.No.596/2020. Even the Apex Court in the case of **L.R.PATIL (supra)** has also considered the same provision. The relevant paragraphs are extracted below:

"19. Further, it is not the case of the respondent-University that the appellant was permanently absorbed or confirmed on the new post. Conversely, the respondent's case is that, in absence of any representation made by the appellant seeking continuation of his lien on the



previous post, he cannot claim it subsequently on being retained after quashing of his appointment. In our view, the said stand of the University cannot be countenanced in terms of Rule 20 Note 4 of KCS Rules. As per the language of the said Rule, the lien of a government servant on the previous post stands protected till his or her continuation on probation period on the new post. The intention of the said rule is clear, viz., to protect the past service of the government servant in cases where the government servant is not confirmed or absorbed substantively on the new post on account of his/her failure to satisfactorily complete the probation period or for any other reason.

20. So far as question of the 'relieving order' being treated as resignation is concerned, in terms of Rule 252(b) of KCS Rules, it cannot be treated as resignation. The said Rule makes it clear that if another appointment is taken up by a government servant with proper permission, then it cannot be termed as resignation of public service. Thus, the finding as recorded by the Writ Appellate Court are not sustainable."

12. This Court in W.P.No.104865/2018 disposed of on 21.01.2020, considered the similar provisions of



KCSRs. In that case, an employee of the Civil Court was appointed to the post of Police Constable. He was later appointed as a First Division Assistant in the Civil Court. Before confirmation of his service as First Division Assistant, he sought for re-appointment in the police department and the same has been allowed.

13. Considering the above provision, the orders passed by this Court as well as the Apex Court, I am of the opinion that the petitioner, after taking permission from the Board has applied to the post of PDO in Panchayath Raj Department and before declaration of his Probationary period, he sought for re-appointment in the Board. In view of Regulation 19(f)(2), in the previous post is protected. Contrary to the above provision, the impugned endorsement has been issued. Hence, the same requires to be quashed.

14. In view of the above, the following order is passed:



(i) The writ petition is disposed of.

(ii) The impugned order dated 16.09.2019 vide Annexure-A passed by the third respondent is quashed.

(iii) The respondents are directed to re-consider the representation of the petitioner vide Annexure-K and additional representation, if any submitted, in accordance with law, keeping in view the judgments of this Court in W.P.No.8136/2020, W.P.No.104865/2018 and W.A.No.596/2020 and the judgment of the Apex Court in the case of **L.R.PATIL (supra)**.

(iv) Liberty is reserved to the petitioner to submit additional representation.

(v) In view of disposal of the petition, all pending applications stand disposed of.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE