



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2025

BEFORE

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

WRIT PETITION NO. 25927 OF 2023 (S-RES)

C/W

WRIT PETITION NO. 9983 OF 2023 (S-RES)

IN WP NO. 25927/2023

BETWEEN:

1. SRI N V SRINIVASA MURTHY
S/O LATE VENKATARAMAN
AGED ABOUT 59 YEARS
NOW WORKING AS FIRST DIVISION ASSISTANT
EXAMINATION BRANCH
KUVEMPU UNIVERSITY
JNANASAHYADHRI, SHANKARAGHATTA
SHIMOGA DISTRICT- 577 451.
2. SRI K R RAVI
S/O LATE RAMANNA K S
AGED ABOUT 53 YEARS
NOW WORKING AS FIRST DIVISION ASSISTANT
EXAMINATION BRANCH
JNANASAHYADHRI, SHANKARAGHATTA
SHIMOGA DISTRICT- 577 451.

...PETITIONERS

(BY SRI. MAHANTESH T S., ADVOCATE)

AND:

KUVEMPU UNIVERSITY
JNANASAHYADRI
SHANKARAGHATTA

Digitally signed by
HEMALATHA A
Location: HIGH
COURT OF
KARNATAKA



NC: 2025:KHC:38543
WP No. 25927 of 2023
C/W WP No. 9983 of 2023

SHIMOGA DISTRICT
REP BY ITS REGISTRAR

...RESPONDENT

(BY SRI. SHANTHARAJU., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RELEVANT RECORDS FROM THE RESPONDENT, QUASH THE NOTIFICATION VIDE ORDER NO. KUHRM.2-151.2023-24 DATED 15/04/2023 VIDE (ANNEXURE- G) ISSUED BY THE RESPONDENT BY WHICH THE SENIORITY OF THE PETITIONERS HAVE BEEN WRONGLY FIXED BY SHOWING THE WRONG DATED OF ELIGIBILITY FOR PROMOTION TO THE POST OF FIRST DIVISION ASSISTANT IN SO FAR AS PETITIONERS ARE CONCERNED AND ETC.

IN WP NO. 9983/2023

BETWEEN:

1. MR SUBRAMANYA H N
S/O NAGARAJA H S
AGED ABOUT 51 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADHRI
SHANKARAGHATTA 577451
SHIMOGA DISTRICT.
2. MR BASAVARJBALIGAR
S/O SOMAPPA
AGED ABOUT 51 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADHRI



SHANKARAGHATTA
SHIMOGA DISTRICT-577451.

3. MR RAJASHEKAR G K
S/O HANUMANTHAPPA
AGED ABOUT 51 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADHRI
SHANKARAGHATTA
SHIMOGA DISTRICT-577451.
4. MRS MARIYAMBI T P
W/O JABBAR K
AGED ABOUT 52 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADHRI
SHANKARAGHATTA
SHIMOGA DISTRICT-577451.
5. MR BRAHMANANDARANADE
S/O GANAPATHIRANADE D
AGED ABOUT 51 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADRI
SHANKARAGHATTA
SHIMOGA DISTRICT- 577451.
6. MRS ROOPA K S
W/O GANESH S
AGED ABOUT 48 YEARS
WORKING AS SENIOR ASSISTANT
KUVEMPU UNIVERSITY
JNANASAHYADRI, SHANKARAGHATTA
SHIMOGA DISTRICT-577451.
7. MR VARADARAJU M E
S/O C M ESHWARAPPA
AGED ABOUT 58 YEARS



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WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADRI, SHANKARAGHATTA
SHIMOGA DISTRICT-577451

8. MRS K T SUJATHA
W/O KRISHNAMURTHY
AGED ABOUT 51 YEARS
WORKING AS SECTION OFFICER
KUVEMPU UNIVERSITY
JNANASAHYADRI, SHANKARAGHATTA
SHIMOGA DISTRICT-577451

...PETITIONERS

(BY SRI. MAHANTESH T S.,ADVOCATE)

AND:

KUVEMPU UNIVERSITY
JNANSAHYADRI
SHANKARAGHATTA
SHIMOGA DISTRICT-577451
REP BY ITS REGISTRAR

...RESPONDENT

(BY SRI. SHANTHARAJU., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTIFICATION VIDE ORDER NO.KU.HRM.2.151.2023-24 DATED. 15.4.23 VIDE (ANNEXURE-G) ISSUED BY THE RESPONDENT BY WHICH THE SENIORITY OF THE PETITIONERS HAVE BEEN WRONGLY FIXED BY SHOWING THE WRONG DATE OF ELIGIBILITY FOR PROMOTION TO THE POST OF FIRST DIVISION ASSISTANT IN SO FAR AS PETITIONERS 1 TO 8 ARE CONCERNED AND ETC.

THESE PETITIONS, 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

1. In these writ petitions, the petitioners have called in question the notification dated 15.04.2023 issued by respondent-University (Annexure-G) and pay fixation orders dated 15.04.2023 issued by respondent-University (Annexure-H series).

2. The petitioners are working as non-teaching staffs in respondent-University. As per the seniority list dated 25.06.2004 (Annexure-R2), the dates of their appointments are shown between the years 1994 to 1996. By impugned order dated 15.04.2023 (Annexure-G), the date of eligibility for promotion of the petitioners to the cadre of First Division Assistant has been revised and the date has been fixed as 06.12.2001. Consequently, by impugned order dated 15.04.2023 at Annexure-H series, their pay-scale has been revised. Aggrieved by the said orders, the petitioners are before this Court.



3. The learned counsel for the petitioners submits that the seniority list dated 25.06.2004 reflects the respective dates of entry of the petitioners into service, which falls between the years 1994 to 1996. However, without giving any notice to the petitioners, the respondent has issued the impugned seniority list at Annexure-G wherein the date of eligibility for promotion of the petitioners to the cadre of FDA is fixed as 06.12.2001. He contended that such modification of the promotion eligibility dates, without due notice, is in clear violation of the principles of natural justice.

Secondly, the learned counsel has contended that pursuant to Annexure-G, the respondent has issued impugned pay fixation order dated 15.04.2023 at Annexure-H series, whereby, the salary of the petitioners have been revised. Accordingly, the respondents have issued notice to the petitioners to recover the excess amount paid to the petitioners. He contended that the Apex Court in the case of **State of Punjab v. Rafiq**



Masih reported in **AIR 2015 SC 696** has held that any excess amount paid to the petitioners cannot be recovered in the absence of misrepresentation or fraud on the part of the employees. Hence, he sought for allowing the writ petition.

4. The learned counsel for respondent-University submits that by order dated 25.06.2004, the dates of eligibility for promotion of the petitioners have been wrongly fixed between 1994 to 1996 pertaining to the different petitioners. In the Audit report, an objection has been raised regarding retrospective fixing of their dates of eligibility for promotion and also recommended to recover the excess amount paid to the petitioners. Thereafter, the provisional seniority list has been issued fixing the date of eligibility for promotion of the petitioners as 06.12.2021. The petitioners have been given opportunity to file objections. Accordingly, the petitioners have filed objections and the same has been considered and



impugned seniority list dated 15.04.2023 Annexure-G has been issued. Therefore, the petitioners cannot now claim that impugned seniority list was issued without affording them an opportunity of hearing.

Secondly, the learned counsel contended that the salary of the petitioners have been fixed on the basis of the dates of eligibility for promotion, which was earlier considered between 1994 to 1996 as per seniority list dated 25.06.2004. Thereafter, the same came to be revised by impugned seniority list at Annexure-G and accordingly, the salary of the petitioners has been revised as per impugned Pay fixation orders at Annexure-H series.

He further contended that from 15.04.2023, the petitioners will be paid revised salary and the excess amount, which has been already paid before 15.04.2023 will not be recovered, in view of the law laid down by the Apex Court in the case of **Rafiq Masih (supra)**. Hence, he pays for dismissal of the petitions.



5. Heard the learned counsel for the parties and perused the writ papers.

6. It is not in dispute that the petitioners are working in the respondent-University as non-teaching staffs. The petitioners have been given promotion to the cadre of FDA on 06.12.2001. Subsequently, by seniority list dated 25.06.2004, the petitioners' dates of eligibility for promotion were retrospectively revised, purportedly on the basis that vacancies were available between 1994 and 1996. Thereafter, the Auditor has raised objections as per Annexure-R4 stating that the actual date of promotion should be considered for the purpose of determining the eligibility and not the date when the vacancy arose. Accordingly, the respondent issued the impugned order at Annexure-G dated 15.04.2023, wherein the date of eligibility of the petitioners for promotion has been revised and fixed as 06.12.2001. However, before issuing the seniority list at Annexure-G, the provisional list has been issued. Respondent has called for objections to the said



provisional list. The petitioners have filed objections and they have been heard personally. Thereafter, the impugned order at Annexure-G has been issued. Therefore, the contention of the petitioners that the impugned order at Annexure-G was passed without giving notice or opportunity of hearing, is found to be without merit and is accordingly rejected

7. Insofar as the impugned order dated 15.04.2023 at Annexure-H series is concerned, pursuant to issuing seniority list at Annexure-G, the salary of the petitioners has been revised. Since the dates of eligibility of the petitioners for promotion has been wrongly considered, the same has been rectified vide Annexure-G and consequently, as per impugned orders at Annexure-H series, the salary of the petitioners has been revised. However, in view of the law laid down by the Apex Court in the case of **Rafiq Masih (supra)**, the excess salary paid to the petitioners before the impugned order at Annexure-H series, cannot be recovered. In the present



case, the excess salary paid to the petitioners prior to the issuance of Annexure-H series was not due to any fraud or misrepresentation on their part. Accordingly, such recovery is impermissible in law and same cannot be recovered.

8. The learned counsel for the respondent has fairly submitted that the excess amount paid to the petitioners before issuing the impugned orders at Annexure-H series, will not be recovered in light of the applicable law and judicial precedents.

9. Therefore, under the circumstances, quashing of impugned pay fixation orders dated 15.04.2023 at Annexure-H series, do not arise.

10. Accordingly, the writ petitions are disposed of.

All pending I.As., if any, are disposed of.

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