



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. 28369 OF 2023 (S-KSAT)

BETWEEN:

1. THE DIRECTOR GENERAL OF POLICE
AND DIRECTOR GENERAL,
KARNATAKA STATE FIRE & EMERGENCY SERVICES,
NO.1 ANNASWAMI MUDALIYAR ROAD,
BENGALURU 560 042.
2. THE INSPECTOR GENERAL OF POLICE
AND ADDITIONAL DIRECTOR GENERAL OF POLICE,
KARNATAKA STATE FIRE & EMERGENCY SERVICES,
NO.1, ANNASWAMI MUDALIYAR ROAD,
BENGALURU 560 042.
3. THE DEPUTY INSPECTOR GENERAL OF POLICE
AND CHAIRMAN OF FIRE SELECTION COMMITTEE,
KARNATAKA STATE FIRE & EMERGENCY SERVICES,
NO.1, ANNASWAMI MUDALIYAR ROAD,
BENGALURU 560 042.

...PETITIONERS

(BY SRI.VIKAS ROJIPURA.,AGA)

AND:

SRI VENKATESHWARALU N P.,
SON OF PICHIAIAH N,
AGED ABOUT 38 YEARS,
FIREMAN,
O/O THE DIRECTOR GENERAL OF POLICE AND
DIRECTOR GENERAL,
KARNATAKA STATE FIRE & EMERGENCY SERVICES,
NO.1, ANNASWAMI MUDALIYAR ROAD,

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



BENGALURU - 560 042.
(NOW REMOVED FROM SERVICE)
R/AT BOMMANAKATTE, BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT - 577 301.

...RESPONDENT

(BY SRI. VENUGOPAL M.,ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) CALL FOR THE RECORDS IN APPLICATION NO. 6269 OF 2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL DATED 27.05.2023 AND ETC.,

THIS WRIT 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 KRISHNA S DIXIT)

Petitioner-Police officials are knocking at the doors of writ court for assailing the State Administrative Tribunal's order dated 27.05.2023 whereby private Respondent's Application No.6269/2022 having been favoured, the endorsement/order dated 30.11.2022 at Annexure-A10 having been quashed, they are directed to continue his service as a Fireman and to grant all consequential benefits.



2. Learned AGA appearing for the Petitioners submits that the extant rules are as clear as can be and they bar availment of benefit of Ex-service Reservation repetitively; the Tribunal misdirected itself in construing the said rules keeping in view the Central Government circular inasmuch as Service Conditions of Civil Servants are a matter in State List, Schedule 7 of the Constitution; admittedly Petitioner having availed the said benefit in the earlier appointment, cannot again claim the same benefit; the endorsement impugned before the Tribunal accorded with the same and therefore could not have been voided.

3. Learned counsel appearing for the private Respondent vehemently resists the petition contending that the endorsement impugned before the Tribunal was contrary to law and therefore the Tribunal having rightly construed the extant Rules in the light of Central Government circular has granted relief to the employee. He adds that the result of selection of the second recruitment was made subsequent to first appointment,



which his client resigned within a short period and in such a circumstance Tribunal's reasoning *qua* the application of said Rules cannot be faltered. So contending, he seeks dismissal of the petition.

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

4.1 The first submission of learned AGA that the benefit of reservation for the Ex-Servicemen can be claimed in State Civil Service only once is supported by the very text of the Karnataka Fire and Emergency Services (C & R) Rules, 2012. The Proviso to relevant Rule reads as under:

"Provided that age in the case of candidate who is an Ex-Serviceman discharged from service by reason of demobilization, retrenchment or retirement, age limit shall be relaxed by the number of years of military service by him plus additional three years. However, Ex-serviceman who have previously availed benefit of Ex-serviceman reservation for any Government Service shall not be eligible to avail the benefit again under these rules."



4.2 Learned AGA is right in arguing that ours is a Constitutionally ordained federal structure and that the same is recognized by the Apex Court as a Basic Feature vide *KESAVANANDA BHARATI SRIPADAGALVARU vs. STATE OF KERALA*¹. Under our Constitutional Scheme there is distribution of Legislative & Executive powers vide Articles 246 to 254. Entry 41 whose title reads: '*State Public Services; State Public Service Commission*'. That being the position no Central Government circular of the kind would assume relevance while construing the Proviso of the extant Rule. It hardly needs to be stated that States in a Federal Structure like ours are not vassal units of the Centre, to borrow the words of late Jurist Fali S.Nariman². This view is expressed by one of us (Dixit.J.,) in **MOOGAMBIGAI CHARITABLE AND EDUCATIONAL TRUST & OTHERS, vs. UNION OF INDIA & OTHERS**³. All this has been lost sight of by the Tribunal and thus its order is marred by legal infirmity of great magnitude warranting our interference.

¹ AIR 1973 SC 1461

² State of the Nation, Hay House India Publication.

³ 2020 SCC OnLine Kar 2000



4.3 The vehement contention of learned counsel appearing for the private Respondent that his client has not availed any benefit of reservation of the kind that can be granted to the Ex-Servicemen, is unsustainable both on facts and on law: Firstly, the fact that the private Respondent had resigned from the earlier job and remitted back Rs.1 lakh to the Commandant Special Reserve Police, amounts to an admission that he had been appointed to a particular post in public service. The question of resignation would not arise unless one is in employment. It is not his case that his appointment to CSRP was not on the basis of benefit of reservation availing to Ex-Servicemen in public service.

4.4 The impugned order of the authorities has some objectionable part inasmuch as stigma of suppressing availment of benefit of reservation to Ex-Servicemen, is stated to be one of the reasons. Learned counsel for the Petitioner is right in arguing that when he had applied for the post in question, he was not employed in Special



Reserve Police. The selection to the post in question came much after his earlier appointment. This objectionable part of the order being severable, the Tribunal should have undertaken that exercise. It approached this aspect of the matter with a juridically defective angle. Suffice it to say, that the impugned order dated 30.11.2022 made by the 1st Petitioner shall not be construed as stigmatic at all. It is a case of innocuous discharge simplicitor and therefore would not affect his employment potential, be it in public or private.

4.5 All the above being said, one thing needs to be noted: If the Respondent has resigned a particular post because of his subsequent selection to the employment in Fire Service Department, it would be unjust to leave him at the lurch because he would be neither here nor there. That is not a happy thing to happen to a citizen at the hands of a Welfare State when no culpability is laid at his threshold. There is scope for arguing that he is an innocent victim of misinterpretation of Rule. In such



circumstance, he can apply for withdrawal of the resignation even at this point of time, notwithstanding its acceptance, if any. In that connection he can make an appropriate representation within two weeks and that the same shall be considered favourably by the jurisdictional authority within four weeks next following. This relief we have granted to the private Respondent in the peculiar fact matrix of the case with no intent to infuse elements of precedential value.

In the above circumstances, this petition is disposed off confirming order of the Tribunal with the observations herein above made.

Costs made easy.

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

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