



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. 32209 OF 2024 (S-KSAT)

BETWEEN:

SRI.MADAPPA K.S
S/O LATE SHIVAPPA
AGED ABOUT 52 YEARS
WORKING AS PHYSICAL EDUCATION TEACHER,
GOVERNMENT URDU HIGHER PRIMARY SCHOOL
GALIPURA, CHAMARAJANAGAR TALUK,
CHAMARAJANAGAR DISTRICT.
RESIDING AT HOUSE BEHIND SUB JAIL,
COURT ROAD, CHAMARAJANGAR.

...PETITIONER

(BY SRI. NARASIMHARAJU.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPLE SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION & LITERACY,
M S BUILDING, BENGALURU-560 001.
2. THE COMMISSIONER,
DEPARTMENT OF SCHOOL EDUCATION,
NRUPATHUNGA ROAD, BENGALURU – 560 001.
3. THE DIVISIONAL SECRETARY &
EX OFFICIO JOINT DIRECTOR,
DEPARTMENT SCHOOL EDUCATION,
MYSURU DIVISION, MYSURU-570 001.

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by CHETAN B
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Location: HIGH
COURT OF
KARNATAKA



4. THE DISCIPLINARY AUTHORITY & DEPUTY DIRECTOR
DEPARTMENT OF SCHOOL EDUCATION,
CHAMARAJANAGAR DISTRICT,
CHAMARAJANGAR-571 313.

...RESPONDENTS

(BY SRI.VIKAS ROJIPURA.,AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I)ISSUE WRIT OF CERTIORARI BY QUASHING THE IMPUGNED ORDER PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL IN APPLICATION NO.4738/2024 DATED 11/11/2024 AS PER ANNEXURE-A AND CONSEQUENTLY ALLOW THE APPLICATION NO.4738/2024 BEFORE THE HON'BLE KSAT AND ETC.,

THIS WRIT PETITION, COMING ON FOR FINAL HEARING, 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 who has been working as a Physical Education Teacher in a Government school since more than 27 years is knocking at the doors of Writ Court for assailing the State Administrative Tribunal's order dated 11.11.2024 whereby his Application No.4738/2024 has been negatived. In the said Application he had called in question the order of suspension dated 25.09.2024 in



contemplation of disciplinary enquiry on the ground that at the time of selection he had produced fake marks card of C.P.Ed., and thereby secured appointment order dated 21.02.1997.

2. Learned counsel for the petitioner vehemently argues that the very premise that his client had produced a fake marks card of C.P.Ed., which depicted 880 marks when the true figure was 808, itself is false as vouched by the very Karnataka School Examination & Assessment Board, Bengaluru which had awarded the degree/course certificate; therefore the intended disciplinary enquiry and also the suspension order are unsustainable; in any event even going by the lesser marks of 808, still no action can be taken against the Petitioner there being no other candidate who had secured more marks than this; at this length of time, petitioner cannot be found fault with and therefore on the ground of delay & laches, the impugned action of the official respondents is liable to be voided.



3. Learned AGA appearing for the official Respondents vehemently resists the petition making submission in justification of the impugned order of the Tribunal and the reasons on which it has been constructed. He submits that fraud vitiates everything and that when there is an allegation of fraud, the same needs to be investigated into and therefore the reasoning of the Tribunal cannot be faltered.

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 Petitioner was selected as a Physical Education Teacher way back in 1996 and he secured appointment as such on 21.02.1997. Since then he has been working with no complaints whatsoever as to the discharge of his duties of the post. Much water has flowed under the bridges, 27 years having lapsed after appointment. At this length of time neither it is desirable nor appropriate to go back in time to find out what happened in the selection



process. No purpose would be served by digging the grave at this length of time. This aspect has been lost sight of by the Tribunal.

4.2 *"Fraud vitiates everything ..."* said Lord Edward Coke centuries ago and since then all civilized jurisdictions have adopted it as a functional norm for restoring justice to the defrauded, arguable legal technicalities such as delay & laches, notwithstanding; our Apex Court too echoed the same in S.P. Chengalavaraya Naidu –vs- Jagannath, **(1994) 1 SCC 1** when it made the following observations:

"...'Fraud avoids all judicial acts, ecclesiastical or temporal' observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings..."

To invoke this age old proposition, the factum of fraud should be *prima facie* demonstrable. Chanting fraud as



mantra would not yield reward. Several pros & cons of invoking this proposition have to be examined, before taking an adversely assumptive decision.

4.3 There is force in the submission of counsel for the Petitioner that there was none above his client who had secured more than 808 marks, even if it is assumed that Petitioner had secured ranking in the selection list that his marks score was 808 only and not 880. That being the position it cannot be contended by the authorities that any significant change would have occurred, even if 808 marks are kept in tact in his score card. We have ascertained at the Bar that Petitioner has been discharging his duties since last 27 years with no complaint whatsoever. Long & spotless service enures to the benefit of employees, more particularly in public service.

4.4 Counsel for the Petitioner is right in telling us that his client had secured 880 marks and that the certificates depicting the said score have been authenticated by the very author namely the institution in question. Ordinarily,



when the author does not dispute the authenticity of something like this, it is not open to others to contend to the contrary. We should appreciate the fairness of learned AGA in telling the truth that the authenticity of marks card is ascertained at the hands of the institution.

In the above circumstances, this petition succeeds and the impugned order of Tribunal is quashed. Petitioner's Application No.4738/2024 having been favoured the suspension order dated 25.09.2024 as also the intended disciplinary enquiry are set aside. Petitioner shall be give all consequential benefits, such as monetary & service credentials.

Costs made easy.

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

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

AM/Snb
List No.: 1 SI No.: 21