



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF FEBRUARY, 2026

BEFORE

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

WRIT PETITION NO. 7424 OF 2021 (S-R)

BETWEEN:

SRI.S.N.ANIL KUMAR
S/O D NARASIMHAPPA
AGED ABOUT 62 YEARS
RETIRED ACCOUNTS SUPERINTENDENT
R/AT VENKATESWARA PRASANNA
2ND CROSS, RENUKAMBA BADAVANE
KASHIPURA MAIN ROAD
SHIVAMOGGA 577204.

...PETITIONER

(BY SRI. MANJUNATHA RAO BHOUNSLE., ADVOCATE)

AND:

1. KARNATAKA URBAN WATER
SUPPLY AND DRAINAGE BOARD
REP. BY ITS MANAGING DIRECTOR
JALA BHAVAN, NO 6, I PHASE
I STAGE, BTM LAYOUT
BANNERGHATTA MAIN ROAD
BENGALURU 560029.
2. THE SECRETARY
KARNATAKA URBAN WATER SUPPLY
AND DRAINAGE BOARD
JALA BHAVAN, NO 6, I PHASE
I STAGE, BTM LAYOUT
BANNERGHATTA MAIN ROAD
BENGALURU-560029.
3. THE EXECUTIVE ENGINEER
KARNATAKA URBAN WATER SUPPLY
AND DRAINAGE BOARD

Digitally signed by
MALATHI
CHALUVA IYENGAR
Location: HIGH
COURT OF
KARNATAKA



SHIVAMOGGA DIVISION
DC COMPOUND, BALARAJ URS ROAD
SHIVAMOGGA 577201.

...RESPONDENTS
(BY SRI.H S SUHAS, ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE OFFICIAL MEMORANDUM/ORDER IN NO: KAJAMA/HRD-5/CR-/ NIVRUTTA PINCHANI/1302/2018-19 DATED: 18.08.2018 VIDE ANNEXURE-F AND THE ENDORSEMENT IN KAJAMA/HRD-6/ 2180/2019-20 DATED:27.1.2020 VIDE ANNEXURE-J PASSED AND ISSUED BY R-2 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

1. In this writ petition, the petitioner sought for the following relief/s:

"a] issue writ in the nature of certiorari to QUASH the Official Memorandum/Order No. in KaJaMa/HRD-5/CR-/Nivrutta Pinchani/1302/2018 -19 dated 18.08.2018 vide Annexure-'F' and the Endorsement in No. KaJaMa/HRD-6/2180/2019-20 dated



27.01.2020 vide Annexure-'J' passed and issued by the 2nd Respondent;

b] a writ in the nature of mandamus or order or direction directing the Respondent Nos. 1 & 2 to grant all the pensionary benefits taking last drawn salary of the Petitioner as Rs. 55,350/- per month and grant all the consequential benefits along with interest at the rate of 9% per annum from the date of accrual till the date of actual payment;

c] a writ in the nature of mandamus or order or direction directing the Respondent Nos. 1 & 2 to REFUND the amount of Rs. 1,37,673/- along with interest at the rate of 18% per annum from 18.05.2018 till the date of realization;

d] grant such other writs or orders or directions as this Hon'ble Court deems fit under the facts and circumstances of the case, in the interest of justice and equity."

2. The case of the petitioner is that he joined the service of respondent No.1-Board as a Second Division Assistant (SDA) on 05.03.1983. Thereafter, he was promoted to the post of First Division Accounts Assistant (FDAA) in the year 2000 and was further promoted to the post of Accounts Superintendent in the year 2013. After



serving in various places across the State, he retired from service on 30.04.2018 upon attaining the age of superannuation. When an audit was conducted in respect of the respondent-Board, an audit objection was raised regarding wrong pay fixation in respect of the petitioner, stating that excess salary had been paid to him. Accordingly, the respondent-Board, by the impugned orders dated 18.08.2018 and 27.01.2020 vide Annexures-F and J, respectively, a sum of Rs.1,38,673/- was ordered to be deducted and directed that the remaining retirement benefits be paid to the petitioner. Being aggrieved by the said impugned orders dated 18.08.2018 and 27.01.2020, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner has submitted that after audit report vide Annexure-B dated 04.08.2014, the respondent-Board has clarified that there was no wrong fixation of the scale pay of the petitioner. He further contended that even otherwise in view of the judgment of Apex Court in case of ***State of Punjab and***



Ors. vs. Rafiq Masih (White Washer) and Ors reported in **(2015) 4 SCC 334**, the respondent has no authority to recover any amount from the retirement benefit. Hence, he sought for allowing the petition.

4. Learned counsel appearing for the respondents submits that the petitioner himself, by communication dated 02.11.2017, has admitted that in case of wrong fixation of pay scale, the authority may deduct the excess payment of Rs.15,530/-. Since he has admitted that excess payment was made to him, the authority has rightly issued the impugned order for recovery and recovered the excess amount of Rs.1,38,673/- paid to him.

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

6. The specific case of the respondents is that an audit objection was raised stating that the petitioner's pay had been wrongly fixed and that he had been paid excess salary. Therefore, the impugned order was passed,



directing recovery of a sum of Rs.1,38,673/-, which was allegedly paid in excess. Since the petitioner was retired as Group 'C' employee, the case of '**Rafiq Masih**' (supra), wherein the Apex Court has held that where excess salary has been paid by the employer without any fault on the part of the employee becomes applicable, recovery of such excess amount is impermissible, becomes applicable. The relevant paragraph No.18 is extracted below for ready reference:

"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).



(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

7. Since the petitioner is a Group 'C' employee, and the excess salary was paid without any fault on his part, irrespective of the reason, the impugned orders vide Annexures-F and J are liable to be quashed. Insofar as the amount of Rs.15,530/- is concerned, the petitioner has admitted that the same may be recovered.



8. Accordingly, following order is passed:

ORDER

- a) The writ petition is ***allowed***.
- b) The impugned orders dated 18.08.2018 vide Annexure-F and 27.01.2020 vide Annexure-J are hereby quashed.
- c) The respondents are directed to refund the amount of Rs.1,38,673/- after deducting a sum of Rs.15,530/- within eight weeks from the date of receipt of a copy of this order.
- d) If the amount is not refunded within eight weeks, the respondents shall pay interest at the rate of 6% per annum on the said amount from the expiry of eight weeks till the date of payment.
- e) Insofar as prayer No.2 is concerned, i.e., with regard to pay fixation and payment of pensionary benefits, the petitioner is permitted to submit a



representation. If such representation is submitted, the respondents are directed to consider and dispose of the same, within three months from the date of receipt of the representation.

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

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LIST NO.: 1 SL NO.: 31