



CNR: KAHC010173632024

NC: 2026:KHC:42224-DB
WP No. 9314 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 10TH DAY OF AUGUST, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
WRIT PETITION NO. 9314 OF 2024 (S-KSAT)

BETWEEN:

SRI. GURUNATH S/O BASAVARAJ
AGED ABOUT 36 YEARS,
PRESENTLY WORKING AS
LECTURER IN KANNADA
GOVERNMENT PU COLLEGE
MADABOOLA, CHITTAPUR TALUK
KALBURGI DISTRICT-585211
R/AT YEWOOR, SHORAPUR TQ.,
YADGIR DISTRICT-585309.

...PETITIONER

(BY SRI. RAGHAVENDRA G GAYATRI, ADV.)

AND:

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF SCHOOL EDUCATION
AND LITERACY
(PRE UNIVERSITY EDUCATION)
M S BUILDING
DR. B R AMBEDKAR VEEDHI
BANGALORE-560001.
2. THE DIRECTOR
KARNATAKA EXAMINATION AUTHORITY,
18TH CROSS ROAD,
SAMPIGE ROAD, MALLESHWARAM
BENGALURU-560012.



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3. THE DIRECTOR
DEPARTMENT OF
PRE UNIVERSITY EDUCATION
18TH CROSS ROAD,
SAMPIGE ROAD
MALLESHWARAM
BENGALURU-560012.
4. SRI HANMANTHRAAYA
S/O SHRI KALLAPPA KARIGUDDA
AGED ABOUT 36 YEARS
R/AT DEVARGONAL
SHORAPUR TALUK
YADGIR DISTRICT-585220.

...RESPONDENTS

(BY SRI. RAJENDRA K.R., AGA FOR R1 TO R3
SRI PRITHVEESH M.K., ADV.F OR R4)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE A WRIT OF CERTIORARI AND SET ASIDE THE ORDER OF THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL PASSED ON 16.11.2023 IN APPLICATION NO. 6893/2020 (VIDE ANNEXURE-A) IN SO FAR AS THE SETTING ASIDE OF THE ORDER OF SELECTION AND APPOINTMENT OF THE PETITIONER IS CONCERNED; B) ISSUE A WRIT OF MANDAMUS OR DIRECTION DIRECTING THE RESPONDENTS TO CONTINUE THE PETITIONER IN SERVICE IN THE POST OF LECTURER IN KANNADA 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 S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO



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ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The petitioner, who was respondent No.4 before the Karnataka State Administrative Tribunal at Bengaluru (for short "Tribunal") is before this Court under Article 226 of the Constitution of India, questioning the correctness and legality of order dated 16.11.2023 in Application No.6893/2020 passed by the Tribunal, allowing the application of respondent No.3 by setting aside the select list dated 21.10.2021 in No.ED/KEA/ADMN/CR-54/2014-15 at Annexure-A21 to the extent of selection of 4th respondent to the post of Lecturer in Kannada of Pre-University College under Scheduled Caste-Physically Handicapped (Hearing Impairment).

2. The parties would be referred to as they stood before the Tribunal. The petitioner was respondent No.4 and respondent No.4 herein was the applicant before the Tribunal.



3. The brief facts of the case are that:

The applicant as well as respondent No.4 applied for the post of Lecturer in Kannada in pursuance of the recruitment notification dated 08.05.2015 issued by the second respondent-Karnataka Examination Authority, claiming reservation under Scheduled Caste-Physically Handicapped category (for short "SC-PH"). The applicant and respondent No.4 had applied to the post meant for non Hyderabad-Karnataka residual cadre. Out of 108 vacancies 17 vacancies were reserved for SC category and out of 17, only one post was reserved for PH category. The applicant had scored 200.25 marks whereas respondent No.4 had secured 123 marks. In terms of Annexure-A3, sub-classification with regard to PH reservation was not shown under SC category. The provisional select list was published on 26.08.2019 and insofar as one post of SC-PH, none was selected and the provisional select list indicated post kept vacant for



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clarification, since it had not indicated sub-classification under PH category. The second respondent-Examination Authority under letter dated 27.08.2019 addressed to the 3rd respondent sought clarification with regard to sub-classification under PH category. The 3rd respondent by letter dated 23.09.2019 (Annexure-R4) clarified that the PH vacancy notified under SC category belongs to 44th roster point. 44th roster point sub-classification would be 'hearing impairment'. Taking note of the same, the final select list was published on 21.10.2021 and one Sri.Thippa Naik was selected. The said selection of Thippa Naik was challenged by the applicant in Application No.6893/2020. During the pendency of the said application, respondent No.4 was impleaded by deleting Thippa Naik stating that the said Thippa Naik failed to report to duty. Thereafter, by operating additional select list, 4th respondent is selected subsequently. It is also noticed that 4th respondent was appointed by O.M. dated 13.02.2023



(Annexure-R5). It is stated that respondent No.4 is working as Lecturer in Kannada since February 2023.

4. The Tribunal, on hearing the parties, under impugned order dated 16.11.2023 set aside the selection of respondent No.4 solely on the ground that changing or indicating sub-classification subsequently would amount to change of Rules of the Game after the game was played which is impermissible. Questioning the said order of the Tribunal, respondent No.4 before the Tribunal is before this Court in this writ petition.

5. Heard learned counsel Sri.Raghavendra G Gayathri for petitioner who is respondent No.4 before the Tribunal, learned AGA for respondents No.1 to 3 and Sri.M.K.Prithveesh, learned counsel for respondent No.4/applicant before the Tribunal. Perused the entire writ petition papers.



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6. Learned counsel for respondent No.4/petitioner herein contends that indicating sub-classification subsequently would not amount to changing the rules of game after commencement of the game. He would submit that sub-classification was existing since 2009 by Government Order dated 01.08.2009 (document No.4 produced along with Memo dated 10.08.2026). Non indicating sub-classification and subsequent selection of respondent No.4 in terms of sub-classification would be valid and is in accordance with law. Learned counsel Sri.Raghavendra G Gayathri would submit that the Government Order dated 25.09.2020 (Annexure-H) also makes it clear that 44th roster point would be 'deaf and hard of hearing'. When all the Government Orders placed on record makes it clear that 44th roster point would be for PH-hearing impaired and when the respondent-Selecting Authority had failed to indicate proper sub-classification in the recruitment notification, subsequent selection of a candidate belonging to the correct sub-classification of PH



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category would not be illegal and would not amount to changing the rules of the game. Thus, learned counsel for the petitioner submits that the Tribunal failed to appreciate the above point and erroneously has come to the conclusion that even non-mentioning of sub-classification of a reserved category would amount to changing rules of the game. Thus, he would pray for allowing the writ petition and to set aside the impugned order passed by the Tribunal.

7. Learned AGA has filed an affidavit of respondent No.3/Director of Department, Pre-University Education dated 10.08.2026 and referring to the said affidavit would submit that 44th roster point would be for hearing impairment under PH category.

8. Learned counsel Sri.M.K.Prithveesh for applicant submits that the applicant is more meritorious than respondent No.4. Hence, the Tribunal is justified in setting aside the selection and appointment of respondent No.4.



He submits that the applicant as well as respondent No.4 both belonging to SC category and both of them have claimed PH reservation. Learned counsel would submit that when one post is classified for PH without any sub-classification it would mean that the general candidate under SC-PH category shall be selected and appointed. Further, learned counsel Sri.Prithveesh would submit that there are vacancies in the department and all the posts notified under recruitment notification dated 08.05.2015 are not filled up. Therefore, he prays for accommodating the applicant against unfilled vacancy. Thus, he would pray for dismissal of the writ petition.

9. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, we are of the considered opinion that non-mentioning of sub-classification of reserved category and subsequent selection of the candidate belonging to the sub-classification belonging to sub-classification of a reserved



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vacancy would not amount to change of rules of the game after commencement of the game.

10. There is no dispute that both the applicant and respondent No.4 belong to SC category and both applied for the post of Lecturer in Kannada in Pre-University College in pursuance of the recruitment notification dated 08.05.2015 claiming PH reservation. It is also an admitted fact that in terms of classification in respect of non-Hyderabad-Karnataka residual cadre (Annexure-A3), 17 posts are reserved for SC category, out of 17 posts meant for SC category, one post was reserved for PH. Admittedly no sub-classification was shown against PH vacancy. Before publication of provisional select list, second respondent-Examination Authority sought clarification from Respondent No.3 with regard to non-mentioning of sub-classification under SC-PH category. Respondent No.3 vide letter dated 23.09.2019 clarified that the PH vacancy notified under SC category is 44th roster point which would



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be available for sub-classification of Hearing Impairment under PH reservation. Apparently, the said clarification was on the basis of Government Order dated 01.08.2009 (document No.4 produced along with memo dated 10.08.2026) which clearly indicates that 44th roster point would be for a candidate belonging to 'PH-hearing impairment'. Further, the Government Order issued on 25.09.2020 (Annexure-H) makes it further clear that roster point 44 is reserved for the candidates belonging to 'PH-deaf and hard of hearing'.

11. Sub-classification of 44th roster point to PH category, particularly, 'hearing impaired' candidates was available since 2009 and non-mentioning of the same is a mistake on the part of the Selection Authority while publishing the recruitment notification. Mere rectification of a defect in the recruitment notification would not amount to change of rules of the game on commencement of the game. If any eligibility criteria or qualification is changed during the



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process of selection, then only it would amount to changing the rules of game after commencement of game. The Tribunal, in the above explained circumstances could not have applied the case of **MANJUSHREE v/s STATE OF ANDHRA PRADESH AND ANOTHER** reported in **(2008) 3 SCC 512** to the facts of the present case. The Tribunal failed to appreciate the fact that, classification or sub-classification was available prior to publication of recruitment notification and selection of a candidate i.e., petitioner, under SC-PH category to roster point No.44 meant for 'hearing impaired' candidate cannot be said to be change in the rules of game after commencement of game. What was already available or what was categorized prior to recruitment notification is implemented subsequently on obtaining clarification.

12. Learned AGA on instructions submitted that all the notified vacancies have been filled up and there is no vacancy available. In that circumstance, prayer of the



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applicant for considering his case to the existing vacancy would not arise.

13. For the reasons recorded above, the petition succeeds with the following order:

(i) The writ petition is allowed.

(ii) The impugned order dated 16.11.2023 passed by the Tribunal in Application No.6893/2020 is set aside.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

MPK
CT:bms
List No.: 1 Sl No.: 14