



CNR: KAHC010178662024

NC: 2026:KHC:47616
WP No. 9468 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 9468 OF 2024 (S-RES)

BETWEEN:

SMT. UMA DEVI K
W/O SAMPATH KUMAR H .S.
AGED ABOUT 45 YEARS
WORKING AS TYPIST AT APS POLYTECHNIC (AIDED),
SOMANAHALLI,
BENGALURU - 560082

...PETITIONER

(BY SRI. VASANTHAKUMAR K M., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF HIGHER EDUCATION
GOVT. OF KARNATAKA,
M S BUILDING,
BENGALURU- 560001
2. THE COMMISSIONER
DEPARTMENT OF COLLEGIATE AND TECHNICAL
EDUCATION
TANTRIKA SHIKSHANA BHAVANA,
PALACE ROAD,
BENGALURU - 560001

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by VARSHA N
RASAI KAR
Location: HIGH
COURT OF
KARNATAKA



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3. THE JOINT DIRECTOR (ADMINISTRATION)
DEPARTMENT OF TECHNICAL EDUCATION,
PALACE ROAD,
BENGALURU - 560001
4. THE DIRECTOR
DEPARTMENT OF TECHNICAL EDUCATION
PALACE ROAD,
BANGALORE - 560001
5. THE APS POLYTECHNIC
SOMANAHALLI
BENGALURU SOUTH TALUK
BENGALURU - 560 062
REPRESENTED BY ITS PRINCIPAL

....RESPONDENTS

(BY SMT. ASHVINI PATIL, AGA FOR R1 TO R4
R5 SERVED)

THIS WRIT PETITION FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE COMMUNICATION /ORDER DTD 23.01.2024 IN NUM DTE ADMNO/EST (14) 1/2023 ISSUED BY THE R-2 BEING ARBITRARY ERRONEOUS AND OPPOSED TO LAW JUSTICE AND EQUITY AND IS NOT SUSTAINABLE IN LAW (ANNX-Z1). DIRECTING THE R-2, 3 AND 4 HEREIN CHANGE THE CADRE OF PETITIONER FROM THE CADRE OF TYPIST TO SDA FROM THE DATE OF 24.01.2015 ON WHICH THE PETITIONER BECAME ELIGIBLE TO THE POST OF SDA, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

The petitioner has filed this writ petition seeking the following reliefs:

- (a) Issue a writ of certiorari or any other writ or order or direction, quashing the communication/order dtd: 23.01.2024, in Num DTE-ADMNO/EST (14) 1/2023, issued by the respondent No.2, being arbitrary, erroneous and opposed to law, justice and equity and is not sustainable in law. (Annexure-Z1);
- (b) Issue a writ of mandamus or any other writ or order or direction, directing the respondents No.2, 3 and 4 herein change the cadre of petitioner from the cadre of typist to S.D.A. from the date of 24.01.2015, on which the petitioner became eligible to the post of SDA, in the interest of justice and equity;
- (c) Grant such other and further reliefs as are just even including the costs of this petition in the interest of justice and equity.



2. Brief facts leading rise to the filing of this writ petition are as follows:

The petitioner submitted a representation for change of cadre from the post of Typist to the post of SDA. Respondent No.2 rejected the request made by the petitioner. It is contended that the petitioner submitted one more representation citing similar case, wherein the authorities permitted to change the cadre from Typist to SDA and for her entitlement. Despite approval from the State Government, respondent No.2 has rejected the representation filed by the petitioner vide order dated 23.01.2024 passed by respondent No.2. The petitioner aggrieved by the order dated 23.01.2024, filed this writ petition.

3. The State has filed statement objections contending that the petitioner is not entitled for the relief sought in the writ petition and the same is liable to be



dismissed. It is contended that the petitioner is an aided employee working as Typist in respondent No.5-Institution since 03.03.2003. The petitioner had submitted representations for change of cadre from Typist to Second Division Assistant as per the Karnataka Civil Services (Typists and Junior Assistants/Second Division Clerks) (Change of Cadre) Rules, 1964 (for short 'the Rules, 1964'). However, provision for Change of Cadre is not made applicable directly for the Grant-in-Aid employees and since, in one similar case of Sri Raju T Solarpurkar, Typist, KHK Polytechnic, Dharwad, respondent No.1 had rejected his cadre change proposal, the Joint Director (Administration), respondent No.3 herein rejected the claim of the petitioner vide letter dated 25.01.2018 vide Annexure-F and the said letter does not suffer from any illegality. It is contended that the Karnataka Civil Services Rules are applicable to the Government Employees are not directly applicable to the employees of private aided institution. Therefore, initially



the claim of one Raju Solarpurkar for change of cadre was rejected by respondent No.1 and accordingly, the claim of the petitioner was also rejected vide letter dated 25.01.2018. The said Sri Raju T. Solarpurkar approached this Court in W.P.No.100860/2018 before the Dharwad Bench and the said writ petition was disposed of vide order dated 04.04.2018 and directed the respondents to consider the representation of the petitioner therein afresh. The Government vide its order dated 27.06.2018 the petitioner aggrieved by the same, filed this writ petition in W.P.No.26047/2018 and withdrawn the said writ petition and submitted a fresh representation on 19.03.2019 vide Annexure-M to respondent No.4 and respondent No.4 submitted a proposal to respondent No.1 vide communication dated 21.03.2019. Respondent No.1 rejected the request of the petitioner in accordance with the law. Hence, prays to dismiss the writ petition.

4. Heard the learned counsel for the petitioner and also learned AGA for the respondents.



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5. Learned counsel for the petitioner submits that the similarly placed Typist submitted an application for change of cadre from the post of Typist to the post of SDA and the respondent who has accorded permission of Raju Solarpurkar for Typist of cadre from the post of SDA. The petitioner is similar benefit on the ground of parity by rejecting the request of the petitioner it amounts to violation of Articles 14, 19 and 21 of the Constitution. He also submits that one post is vacant for SDA. Hence, on these grounds, he prays to allow the writ petition.

6. *Per contra*, learned Government Advocate submits that respondent No.1 has rightly rejected the request of the petitioner for change of cadre from the post of Typist to the post of SDA. She submits that as per Cadre and Recruitment Rules, approached the post of SDA. She submits that as per Cadre and Recruitment Rules, the post of SDA has to be filled in the ratio of 67% through Direct Recruitment and 33% through Promotion. On verification of the vacancy position of the Institution,



two posts are sanctioned for the post of SDA and last 3 posts were filled by Direct Recruitment. She submits that one post of SDA is vacant. Hence, on these grounds, he prays to dismiss the writ petition.

7. Perused the records and considered the submissions of the learned counsel for the parties.

8. It is an undisputed fact that the petitioner was appointed as a Typist. The Government of Karnataka issued a circular dated 03.03.1979 to allow Typists to change their cadre to that of SDA to provide promotional avenues to the Typists, in consonance with the Rules, 1964. The petitioner after completing more than 15 years in the post of Typist in respondent No.4 Institution without any remarks, to the satisfaction of the higher authorities and completed the probationary period. The petitioner submitted a representation dated 09.01.2015 to respondent No.3 seeking for change of the cadre from the post of Typist to the post of SDA which was vacant for



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many years in respondent No.4-Institution. The petitioner submitted a similar representation on 14.01.2015 requesting respondent No.4 for change of cadre from the post of Typist to the post of SDA. Respondent No.4 has prepared his own report and sent the proposal to respondent No.3 vide communication dated 24.01.2015 for consideration. Respondent No.3 sought for some clarification and explanation from respondent No.4 Institution vide communication dated 25.07.2015 before considering the proposal of the change of cadre of the petitioner from the post of Typist to the post of SDA. The petitioner sought for the information vide letter dated 30.08.2017 regarding the clarification/explanation sent by respondent No.4 to the communication issued by respondent No.3. The petitioner submitted a representation explaining the necessity for the change of cadre both for the benefit of the petitioner and the Institution. Respondent No.2 issued a communication dated 25.01.2018 preferred a writ petition in



W.P.No.100860/2018 seeking a direction to the respondents to consider his representation in a similar case. This Court, vide order dated 25.02.2019 disposed of the writ petition and the liberty is reserved to the petitioner to file a fresh representation. Pursuant to the liberty reserved by this Court, the petitioner submitted the representation on 15.03.2019 to the Secretary of respondent No.5 Institution. The petitioner again submitted a representation to the Director, Department of Technical Education on 19.03.2019. The said writ petition came to be allowed vide order dated 04.04.2018 and directed to file one more representation to respondent No.3. Pursuant to the order passed by this Court, Sri Raju T Solarpurkar submitted a representation, wherein the Prl. Secretary, Department of Higher Education, issued a communication to the Director, Department of Technical Education has passed an order wherein permission was granted for change of cadre from Typist to SDA. The petitioner is similarly placed petitioner. The petitioner is



entitled for change of cadre from the post of Typist to the SDA on the ground of parity.

9. In order to consider the case on hand, it is necessary to examine Rule 2 of the Karnataka Civil Services (Typists and Junior Assistants/Second Division Clerks) (Change of Cadre) Rules, 1964.

2. Change of Cadre.- Notwithstanding anything in the rules of recruitment specially made in respect of any service.

(i) a Typist possessing the qualifications prescribed for the post of Junior Assistants / Second Division Assistants may change his cadre to that of a Junior Assistant / Second Division Assistant, as the case may be, and

(ii) a Junior Assistant / Second Division Assistant possessing the qualifications prescribed for the post of Typist may change his cadre to that of Typist, provided that no person shall be eligible to change his cadre unless he has put in not less than five years of service excluding the period of probation or officiation and the period of service if any, rendered by him as a local candidate in the



cadre of Typists or as the case may be Junior Assistant / Second Division Assistant.

10. From the bare reading of the Rule 2 of Rules, 1964, the Typist possessing the qualification prescribed for the post of Junior Assistant/SDA may change his cadre to that of Junior Assistant /SDA.

11. Rule 3 of the Rules, 1964 reads as follows:

3. Procedure.- (1) Persons desiring to change their cadre under rule 2 shall make an application to the authority who appointed them requesting for the change of cadre.

(2) On receipt of the application under sub-rule (1), the appointing authority may if satisfied that the applicant is entitled to change the cadre pass orders granting the request.

12. From the bare reading of Rule 3 of Rules, 1964 if a person desiring to change their cadre under Rule 2 shall make an application to the authority who appointed them requesting for the change of cadre.



13. Admittedly, in the instant case, the petitioner has submitted a representation under Rule 2 of Rules, 1964 and respondent No.1 did not consider the representation submitted by the petitioner for change of cadre and without considering the similarly placed Typist was allowed to change the cadre from the post of Typist to SDA vide Annexure-H.

14. When a specific query was put to the learned AGA whether any vacant post is available in respondent No.5-Institution in regard to the post of SDA.

15. Learned AGA on instruction submitted that one SDA post is vacant. In view of the submission is made by the learned AGA, the petitioner is entitled for change of cadre from Typist to SDA. Respondent No.1 further from the perusal of circular dated 03.03.1979, the provision made in Rules, 1964 is with a view to give routine type of work and to provide for some legitimate prospects for promotion to next higher cadre. Having this in view, all



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Heads Departments are requested to ensure that as and when typists apply for change of cadre after being eligible for change of their cadre to that of Second Division Clerks/Junior Assistants, they should be allowed to change the cadre without undue delay. Respondent No.1 before passing an impugned order did not consider the circular dated 03.03.1979.

16. In view of the above discussion, I proceed to pass the following:

ORDER

- i.* The writ petition is ***allowed.***
- ii. The impugned order dated 23.01.2024 issued by respondent No.2 vide Annexure-Z1 is hereby quashed.
- iii. Respondent Nos.2 to 4 are directed to reconsider the case of the petitioner for change of cadre of Typist to SDA in accordance with the law and pass an appropriate order within eight weeks from the date of the receipt of the copy of this order.



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iv. Pending application/s, if any, shall stand
disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

SSB