

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO. 410 OF 2022 (S-RES)

BETWEEN:

SUNDARA
S/O HANIYA
AGED ABOUT 48 YEARS
WORKING AS PHYSICAL EDUCATION DIRECTOR
AT SRI VENKATARAMANA SWAMY COLLEGE
BANTWAL-574 211
DAKSHINA KANNADA DISTRICT
R/AT. KANCHARAMAKKI HOUSE
KOWKRADY VILLAGE
NELLYADI POST-574 229
PUTTUR TALUK
DAKSHINA KANNADA DISTRICT

...APPELLANT

Digitally
signed by
PAVITHRAN
Location
High Court
of Karnataka

(BY SRI. V. LAKSHMINARAYANA, SENIOR COUNSEL FOR
SMT. ANUSHA L., ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
EDUCATION DEPARTMENT
(SECONDARY EDUCATION)
M.S. BUILDING
SACHIVALAYA
BENGALURU-560 001

- 2 . THE COMMISSIONER OF COLLEGIATE EDUCATION
PALACE ROAD
BENGALURU-560 001
- 3 . SRI VENKATARAMANASWAMY COLLEGE
BANTWAL-574 211
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT
REPRESENTED BY ITS PRINCIPAL
- 4 . THE PRINCIPAL
SRI VENKATARAMANASWAMY COLLEGE
BANTWAL-574 211
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT
- 5 . RAMANANDA BHAT D.
S/O D. GOPALAKRISHNA BHAT
AGED ABOUT 51 YEARS
WORKING AS LECTURER IN SANSKRIT
AT SRI VENKATARAMANA SWAMY COLLEGE
BANTWAL-574 211
DAKSHINA KANNADA DISTRICT
R/AT. No.3-96E, VALASARI ROAD
MANIHALLA, BANTWAL-574 211
DAKSHINA KANNADA DISTRICT

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1;
SRI. H. SUBRAMANYA BHAT, ADVOCATE FOR R3;
R2, R4 & R5 ARE SERVED AND UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO (a). SET ASIDE THE ORDER DATED 31.03.2022 PASSED BY THE LEARNED SINGLE JUDGE IN W.P. No.45569/2018 AND (b). ALLOW THE W.P. No.45569/2018 AND GRANT THE RELIEFS PRAYED FOR AND ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 29.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This appeal is filed challenging the Order dated 31.03.2022 passed by the learned Single Judge in Writ Petitions No.45569/2018 c/w 11074/2019 (S-RES).

2. We have heard Shri. V. Lakshminarayana, learned senior counsel as instructed by Smt. Anusha L, learned counsel appearing for the appellant, Shri. Vikas Rojipura, learned Additional Government Advocate, appearing for respondent No.1 and Shri. H. Subramanya Bhat, learned counsel appearing for respondent No.3.

3. It is submitted by the learned senior counsel appearing for the appellant that the post of Physical Education Teacher in respondent No.3 College was a sanctioned and approved Grant-in-Aid post with effect from 05.05.1972. Pursuant to a Public Advertisement dated 20.07.2001 issued by the Management to fill the said

sanctioned aided post reserved for Scheduled Caste candidates, the appellant was appointed as a Full-Time Physical Education Director on 30.07.2001. The vacancy arose due to the retirement of Shri F.G. Sequera, the then Physical Education Director, on 01.08.2001.

4. After the College was bifurcated with Pre-University Course and Degree Course, the Authorities have shown one full-time Physical Education Director for the Degree College and no sanctioned vacancy for the Pre-University College. The official correspondence exchanged between 2008 and 2012 establishes that the post was a sanctioned and approved aided post in the Degree College, that the vacancy arose due to the retirement of Shri F.G. Sequera and that the post was initially treated as a backlog vacancy reserved for Scheduled Caste candidates. On 26.11.2012, the College recommended approval of the appellant's appointment, recording his continuous service from 30.07.2001 and on 12.12.2012, the Joint Director of Collegiate Education, granted approval to treat the vacancy of Physical Education Teacher as a reserved post.

5. Since, the representation of the appellant seeking approval of his appointment was not considered, the appellant filed Writ Petition No.21314/2014. By Order dated 11.04.2017, this Court directed the respondents to consider the claim of the appellant for regularisation. However, by endorsement dated 26.07.2018, the claim of the appellant for regularisation was rejected. Subsequently, on 28.10.2018, the Government directed that the post be treated as an unreserved single post and to be filled accordingly. Also, on 23.02.2019, the College issued an Advertisement stating that the post was unreserved. Aggrieved by the endorsement dated 26.07.2018 and the Notification dated 23.02.2019, the appellant filed Writ Petitions No.45569/2018 c/w 11074/2019.

6. The learned Single Judge, relying upon the decision of the Constitution Bench in the case of **Secretary, State of Karnataka v. Umadevi** reported in **(2006) 4 SCC 1**, held that regularisation cannot be claimed as a matter of right and is permissible only as a one-time measure in respect of irregular appointments, provided the

employee had completed ten years of continuous service in a duly sanctioned post without the protection of any interim order. Applying the said principle, the learned Single Judge held that the petitioner was not working against a sanctioned post, his appointment had not been approved by the Competent Authority and he had not completed ten years of service as on 10.04.2006. The contention that service rendered after the decision in the case of **Umadevi's** case (supra) could also be counted for regularisation was rejected, holding that **Umadevi's** case (supra) did not recognise such a right.

7. The learned Single Judge further held that the Karnataka Educational Institutions of Karnataka Civil Services (Absorption of Persons Working on Part-Time Lecturers in Karnataka General Services) (Department of Pre-University Education) (Special) Rules, 2011 and the Karnataka Educational Institutions (Absorption of Persons Working as Part-time Lecturers in Aided Private Educational Institutions) (Special) Rules, 2010 ('2010 Rules'), were inapplicable to the petitioner. The decisions in **Malathi Das**

(retired) now P.B. Mahishy and Others v. Suresh and Others reported in **(2014) 13 SCC 249, Narendra Kumar Tiwari and others v. State of Jharkhand and Others** and **Rajnish Kumar Mishra and Others v. State of Uttar Pradesh and Others** reported in **(2019) 17 SC 648**, were also held to be distinguishable, as they arose under different statutory schemes. The claim for equal pay for equal work was rejected on the ground that the petitioner had failed to establish parity of service conditions and was working against a temporary, non-approved post. The challenge to the recruitment Notification dated 22.03.2019 was also rejected since the petitioner had not participated in the selection process. Consequently, the learned Single Judge dismissed the writ petitions.

8. The learned senior counsel appearing for the appellant contended that the learned Single Judge erred in holding that the appellant was working against an unapproved post in the Pre-University College. It was submitted that the records produced by the Management established that the appellant had been appointed against,

and had continuously served in, a sanctioned and approved aided post of Physical Education Director in the Degree College. It was further contended that, owing to the composite nature of the Institution, the appellant had also discharged duties in the Pre-University section and served as an NCC Officer/Commandant for several years, thereby demonstrating continuous full-time service.

9. It is further contended that the learned Single Judge failed to consider the Government Policy dated 22.12.2001 governing bifurcation of Institutions, under which a teacher affected by bifurcation would retain lien in the Degree College where workload existed. It was contended that, even assuming bifurcation, the appellant continued to discharge duties in both the Degree and Pre-University Colleges and therefore, the Management could not proceed with fresh recruitment. It is further contended that the learned Single Judge erred in holding that the appellant was not entitled to consideration for regularisation on the ground that he had not completed ten years of service as on 10.04.2006. Reliance is placed in the case of

Kantharaju v. State of Karnataka reported in **ILR 2019 KAR 2349**, to contend that employees who had completed ten years of continuous service even after the decision in **Umadevi's** case (supra) were entitled to consideration for regularisation. It is submitted that the learned Single Judge ought to have followed the binding precedent and that the appellant, having rendered more than two decades of continuous service against a sanctioned vacancy, was entitled to consideration for regularisation, particularly when the Department had failed to decide the proposal for approval for over two decades.

10. It is further contended that the mere description of the appointment as "temporary" in the appointment order dated 30.07.2001 could not defeat the rights accrued by virtue of long and uninterrupted service. Reliance is placed on the decision of the Apex Court in **Bhola Nath v. State of Jharkhand** reported in **2026 INSC 99**, to contend that appointments should not be invalidated after prolonged service and that employees who have continuously

discharged duties for long periods deserve protection and consideration for regularisation.

11. It is also contended that the plea of estoppel raised by the Management was misconceived, as the appellant had not sought regularisation under the Pre-University Rules but had claimed parity and equal treatment with similarly situated employees in aided Institutions. The appellant had continuously discharged the duties of a full-time Physical Education Director in a Composite Institution having a student strength exceeding 1,000 students and could not be denied the benefit of approval and regularisation on the basis of inconsistent stands adopted by the Management and the State authorities. The learned Single Judge erred in accepting the contention that the appellant did not possess the requisite qualifications. Reliance is placed on the UGC Resolution dated 27.09.2010, the corresponding Government Order, and the decision of the Apex Court in ***University of Kerala v. Merlin J.N.*** reported in **(2022) 9 SCC 389** to contend that candidates who had obtained an M.Phil degree prior to 11.07.2009 were

exempt from the requirement of NET/SLET/Ph.D and remained fully eligible for appointment.

12. The learned Additional Government Advocate appearing for respondent No.1 contends that the post of Physical Education Teacher in the Pre-University College of respondent No.3 was neither approved nor sanctioned and that the appellant has not produced any material to establish otherwise. It is submitted that, prior to 2001, the Degree and Pre-University sections functioned as a composite institution, which was subsequently bifurcated at the request of respondent No.3. The sanctioned post of Physical Education Teacher remained with the Degree College, while no such post was approved for the Pre-University College. Notification dated 20.07.2001 invited applications for temporary teaching posts, including the post of Physical Teacher/Director, thereby indicating that the appellant's appointment was purely temporary. It is further contended that respondent No.3 had not followed the prescribed recruitment procedure while making the appellant's appointment.

13. The learned counsel appearing for respondent No.3 contends that, the appellant was neither appointed against a sanctioned nor an approved post of Physical Education Teacher/Director. The Appointment Order dated 30.07.2001 demonstrates that appointment of the appellant was on temporary basis. It is further contended that, pursuant to the bifurcation of the composite Degree and Pre-University College by Order dated 02.08.2001, the sole sanctioned post of Physical Education Teacher/Director was allotted to the Degree College, leaving no sanctioned post in the Pre-University College. Consequently, the appointment of the appellant being temporary and not approved by the Department could not be regularised. It is also contended that the appellant did not possess the requisite National Eligibility Test qualification. 2011 Rules apply only to Government Pre-University Colleges and not to private aided Institutions. The appellant does not satisfy the eligibility criteria under Rule 2(c)(i) and (iii) of 2010 Rules, as he was appointed only in the year 2001 and had not worked during

the academic year 1993-94 or 1994-95, which was a prerequisite for claiming the benefit thereunder.

14. It is further contended that regularisation cannot be claimed as a matter of right and can be granted only in accordance with the Regularisation Policy framed by the State Government. Mere continuation in service for a long period does not confer any right to regularisation. Relying on the decision **Umadevi's** case (supra), it is contended that the benefit of one-time regularisation is available only to employees who had completed ten years of continuous service as on the date of the said judgment, were working against sanctioned posts and had continued in service without the protection of any interim orders passed by Courts or Tribunals. Since, the appellant had not completed ten years of service as on the date of the judgment in **Umadevi's** case (supra), he was not entitled to regularisation.

15. Having considered the contentions advanced, we notice that the prayer in the writ petition was specifically to quash Annexure 'G' - endorsement and to direct the

respondents to consider the case of the writ petitioner for regularisation on completion of ten years of service on par with that of Karnataka Civil Services (Absorption of Persons Working on Part-Time Lecturers in Karnataka General Services) (Department of Pre-University Education) (Special Rules, 2011). There is a further direction sought to consider the case of the writ petitioner either in PU College or Degree College in the same Institution. It is pertinent to note that even in the writ petition, the writ petitioner had not stated that he had worked from the year 2001 onwards in the Degree College.

16. The pleadings in the writ petition read as follows:-

"6. The petitioner being a Scheduled Caste is working for more than 17 years. After the college was bifurcated with Pre-University Course and Degree, the authorities have shown one full-time Physical Education Director so far as the Degree College is concerned and for the Pre-University Course, there is no sanctioned vacancy. It is case of the petitioner, petitioner is continuously working for last 15 years, - continuance of the petitioner is because of the 'need'. Thus, there is a 'need';. Under these circumstances, the petitioner submits that engagement of the services of the petitioner based

*on the 'need' and his services cannot be dispensed with. However, till today, for both Pre-University Course and Degree, the petitioner alone has been discharging his duties, even after the particulars sent to the Joint Director of Education on 06.03.2009. The copy of the communication sent on 06.03.2009 is herewith produced and marked as **ANNEXURE - D** for the kind perusal of this Hon'ble Court."*

17. We further notice that the Karnataka Civil Services 2011 Rules, provide for regularisation of persons appointed during the year 1993-1994 or 1994-1995. The said Rules have no application to appointments made to temporary posts in the year 2001. It is not in dispute that the appellant's appointment was on a temporary basis. The Notification for recruitment was issued on 20.07.2001. The PU College and the Degree College were bifurcated by Order dated 03.08.2001. It is thereafter that the appellant had joined the service.

18. As pointed out earlier, there is no contention raised in the writ petition that the appellant was working against the sanctioned post in the Degree College. On the converse, even the prayer was for regularisation in the PU

College in terms of the 2010 and 2011 Rules, which have no application. It is clear that, unless there is a scheme for regularisation of temporary appointments, temporary employees who are not appointed against sanctioned post can have no claim for regularisation. Further, respondents No.3 and 4 had specifically contended that Annexure 'B' - Appointment Letter made it clear that the appointment dated 30.07.2001 was only on a temporary basis as on the date of the said appointment, the sanctioned post in the Degree College was still occupied. Consequently, there was no vacancy to accommodate the appellant as on 30.07.2001. Further, the appointment was never sent up for approval or approved. Therefore, the finding of the learned Single Judge that the appellant has not pleaded or proved that he had worked in the Degree College from 2001 to 2019 cannot be found fault with. The mere fact that the appellant had been posted as NCC instructor cannot lead to any inference that he had worked against the sanctioned post in the Degree College since the appointment of the appellant was not against the sanctioned post in the Degree

College. The further question whether the qualification is sufficient for that post does not arise for consideration. The appellant was admittedly a person, who was appointed on a temporary capacity in the year 2001. As such, the further contentions that the appellant is eligible for regularisation in the sanctioned post in the Degree College cannot be considered.

19. Having considered the contentions advanced, we find no error in the finding of the learned Single Judge that the appellant is not eligible for regularisation. The appeal therefore fails and the same is accordingly ***dismissed.***

All pending interlocutory applications shall stand *disposed of.*

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

cp*