



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 9961 OF 2022 (S-RES)

BETWEEN:

SRI T KRISHNOJI RAO
S/O LATE THIMMAIAH
AGED ABOUT 60 YEARS,
RETIRED ATTENDER
KARNATAKA HANDLOOM DEVELOPMENT
CORPORATION AND RESIDING AT NO.384
15TH CROSS, SHANTHINAGAR
DODDABALLAPURA -561 203

...PETITIONER

(BY SRI. VIJAYA RAGHAVA SARATHY H M.,ADVOCATE
SRI. KRISHNA B., ADVOCATE)

AND:

1. THE KARNATAKA HANDLOOM DEVELOPMENT
CORPORATION
REGIONAL OFFICE
HALASURU
BENGALURU-560 042
REP. BY ITS MANAGING DIRECTOR

Digitally
signed by
SHILPABAI S
Location:
HIGH COURT
OF
KARNATAKA



2. THE MANAGER
WAREHOUSE,
THE KARNATAKA HANDLOOM DEVELOPMENT
CORPORATION, PEENYA
BANGALORE-560 058
3. THE FINANCIAL CONTROLLER
THE KARNATAKA HANDLOOM DEVELOPMENT
CORPORATION PEENYA
BANGALORE-560 058

...RESPONDENTS

(BY SRI. PAVANA N M, ADVOCATE FOR
SRI. NAGARAJ D., ADVOCATE FOR R1
R2 & R3 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA FILED PRAYING TO
CALL FOR THE ENTIRE RECORDS, PERTAINING TO THE CASE,
SET ASIDE THE ORDER BEARING
No.Ref.No.KHDC/FC/RO/2018-19/01 DATED 09.04.2018
ISSUED BY THE R3 (SO FAR THE DEDUCTION OF AMOUNT OF
RS.2,99,446/- IS CONCERNED) AND FURTHER DIRECTION TO
THE RESPONDENTS TO REFUND THE DEDUCTED AMOUNT OF
RS.2,99,446/- TO THE PETITIONER ALONG WITH BANK RATE
OF INTEREST.

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



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 appropriate writ or order or direction, setting aside the order bearing No.Ref.No.KHDC/Family Court/RO/2018-19/01 dated 09.04.2018 issued by the 3rd respondent (So far the deduction of amount of Rs.2,99,446/- is concerned) and further direction to the respondents to refund the deduction amount of Rs.2,99,446/- to the petitioner along with bank rate of interest, to meet the ends of justice.*
- (b) *Issue any such orders as this Hon'ble Court deems fit to grant in the facts and circumstances of the case to meet the ends of justice.*

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

The petitioner joined the service of the respondents as a Casual Labour in 1979 and he was appointed as a Helper on regular basis. The provisional gradation list was published on 08.09.2005. In the said list, petitioner's date



of birth was mentioned as 01.06.1956. A final gradation list was published on 03.07.2013, where in the petitioner's date of birth was mentioned as 01.06.1956. On 26.06.2015, the order was issued by respondent No.2 to relieve the petitioner from services on the ground that the petitioner's date of birth is mentioned in service register as 01.06.1954. Therefore, his services have been relieved with retrospective effect from 01.06.2014. The petitioner submitted a representation on 01.10.2015 with a prayer to reinstate his original service and to grant service benefits etc. The petitioner has attained the age of superannuation i.e., at the age of 60 years on 31.05.2016. The petitioner, aggrieved by the relieving order and non-consideration of the representation, approached this Court in W.P.No.39294/2016. The said writ petition came to be dismissed on the ground of delay and laches vide order dated 29.08.2016. The petitioner, aggrieved by the order passed in the writ petition, preferred a writ appeal in W.A.No.3896/2016. The Division Bench vide order dated



27.03.2017, dismissed the writ appeal. The final terminal benefits have been settled and the salary of Rs.2,99,446/- paid for the period from June 2014 to January 2015 was deducted from the out of said benefits. Thus, the petitioner, aggrieved by the deduction of the amount from the benefits, has filed this writ petition.

3. Despite granting sufficient opportunity, the respondent has not filed the statement of objection. Hence, the statement of objection is taken has not filed.

4. Heard the arguments of the learned counsel for the petitioner and also learned counsel for the respondents.

5. Learned counsel for the petitioner submits that the petitioner attained the age of superannuation on 31.05.2016 at the age of 60 years. He submits that the respondent cannot deduct the salary of Rs.2,99,446/- from June 2014 to January 2015. To buttress his arguments, he



has placed reliance on the judgment of the Hon'ble Apex Court in the case of **STATE OF PUNJAB & ORS VS RAFIQ MASIH (WHITE WASHER)** reported in **(2015) 4 SCC 334**. He submits that the said amount was deducted after the retirement vide Annexure-K. The action of the respondent in deducting the said amount is contrary to the mandate laid down by the Hon'ble Apex Court in the case of **RAFIQ MASIH (WHITE WASHER)** (Supra). Hence, on these grounds, he prays to allow the writ petition.

6. *Per contra*, learned counsel for the respondents submits that the petitioner retired from service on attaining the age of superannuation on 31.05.2016 and he submits that the petitioner approached this Court in W.P.No.39294/2016. The said writ petition came to be dismissed vide order dated 29.08.2016. He submits that the petitioner aggrieved by the order passed in the said writ petition, preferred a writ appeal in W.A.No.3896/2016. The said writ appeal came to be dismissed vide order dated 27.03.2017. He submits that the respondents have



paid excess amount to the petitioner. The petitioner is not entitled for the amount of Rs.2,99,446/-. He submits that the respondents have rightly deducted the said amount from the retirement benefits. 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 not in dispute that the petitioner was working in the respondent-Establishment since from 1979 and his date of birth was shown as 01.06.1956 in the service register. In fact, his date of birth is 01.06.1956. The petitioner was relieved from service with the effect from 01.06.2014. The petitioner submitted a representation with a prayer to reinstate his original service vide representation dated 01.10.2015 and also submitted another representation to respondent No.1 on 31.05.2015 requesting to grant service benefits etc. The respondents rejected the representations and called upon



the petitioner to pay a sum of Rs.2,99,446/-. The petitioner, aggrieved by the action of the respondents in rejecting the representations, approached this Court in W.P.No.39294/2016. The said writ petition came to be dismissed vide order dated 29.08.2016. The petitioner aggrieved by the order passed in the said writ petition, preferred writ appeal in W.A.No.3896/2016. The petitioner's service was not extended after 6 years. The respondents have deducted a sum of Rs.2,99,446/- for the period from June 2014 to January 2015. The petitioner was relieved from the duty with effect from 01.06.2014 vide order dated 26.06.2015. In the said order, it is mentioned that the petitioner was relieved with the effect from 01.06.2014 i.e., with the retrospective effect. The respondents have deducted an amount of Rs.2,99,446/- out of the retirement benefits. The Hon'ble Apex Court in the case of **RAFIQ MASIH (WHITE WASHER)** (Supra) held that, the benefit of non recovery cannot extend to an employee merely because he was not an accessory to the



mistake committed by the employer; or merely because the employee did not furnish any factually incorrect information, or misrepresentation and recovery would be impermissible in the following circumstances:

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

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

(iii) Recovery from 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.

9. Admittedly, it is not the case of the respondents that the petitioner has drawn the salary by playing a fraud, by misrepresentation or by incorrect information. The respondents without considering the said aspect, has issued an impugned order dated 09.04.2018 by respondent No.3. The impugned order passed by respondent No.3 is contrary to the mandate laid down by the Hon'ble Apex Court in the case of **RAFIQ MASIH (WHITE WASHER)** (Supra). In view of the above discussion, the impugned order is liable to be set aside.

10. Accordingly, I proceed to pass the following:

ORDER

- i. The Writ Petition is ***allowed.***
- ii. The impugned order dated 09.04.2018 passed by respondent No.3 vide Annexure-K is set aside.



- iii. The respondents are directed to refund the deducted amount of Rs.2,99,446/- to the petitioner within a period of four weeks from the date of receipt of copy of this order.
- iv. Pending applications, if any, stand disposed off accordingly.

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

SSB