



CNR: KAHC010236082021

NC: 2026:KHC:36972
WP No. 19188 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 19188 OF 2021 (S-RES)

BETWEEN:

D.NARENDRA
S/O P DASAPPA
AGED ABOUT 64 YEARS,
RETD ASST EX ENGINEER
IN KPC/BTPS
KUDATINI, BELLARY DIST

PRESENTLY RESIDING AT
NO.6, SREEKUTEERA
5TH G CROSS, HORAMAVU MAIN ROAD
P AND T LAYOUT
BENGALURU-560043

...PETITIONER

Digitally signed
by KIRAN
KUMAR R
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. CHANDRASHEKAR K C., ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KARNATAKA POWER CORPORATION LTD
NO.82, SHAKTHI BHAVAN
RACE COURSE ROAD,
BENGALURU-56001
2. EXECUTIVE DIRECTOR
BELLARY THERMAL POWER STATION
KARNATAKA POWER CORPORATION LTD



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WP No. 19188 of 2021

CNR: KAHC010236082021

KUDITHINI -583152
BELLARY DISTRICT

3. DEPUTY GENERAL MANAGER (FINANCE)
BTPS KPC LTD
KUDATINI -583 152
BELLARY DISTRICT
4. DEPUTY GENERAL MANAGER (HRD)
BTPS, KPC LTD
KUDATINI 583152
BELLARY DISTRICT

...RESPONDENTS

(BY SMT. RAMYA RAMACHANDRAN, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ORDER NO.1018, DATED 04.08.2014 (ANNEXURE-C) ISSUED BY THE RESPONDENT AND ORDER DATED 06.03.2017 VIDE ANNEX-O, BY THE GRANT OF WRIT DECLARING THE SAME AS ILLEGAL, IRREGULAR, ARBITRARY, MALAFIDE, DISCRIMINATORY AND OPPOSED TO ARTICLE 14 AND 16(1) OF THE CONSTITUTION OF INDIA. DIRECT THE RESPONDENTS TO RESTORE THE PAY OF THE PETITIONER TO AND ALLOW THE INCREMENTS, AS PER THE DATE OF ENTRY FROM APRIL MONTH AND ALLOW SUBSEQUENT INCREMENTS AND ALSO FIX THE CORRECT PAY AS PER THE SCALES APPLICABLE, DULY CORRECTING THE ERRONEOUS PAY FIXED, HERETO WITH ALL CONSEQUENTIAL BENEFITS ACCRUED FROM TIME TO TIME, AND TO REFUND AMOUNT OF RS.94,789/- TO THE PETITIONER WITH NOMINAL RATE OF INTEREST, RECOVERED FROM HIS SALARY PURSUANT TO ANNEX-E.

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

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



CNR: KAHC010236082021

NC: 2026:KHC:36972
WP No. 19188 of 2021

ORAL ORDER

The petitioner filed this writ petition seeking the following reliefs:

- "a) *Quash Order No.1018, dated 04.08.2014, (Annex-C) issued by the Respondent and order dated 06.03.2017 vide Annex-O, by the grant of a writ certiorari or any other appropriate writ/ order direction as the case may be declaring the same as illegal, irregular, arbitrary, mala-fide, discriminatory and opposed to Article 14 and 16(1) of the Constitution of India.*
- b) *Direct the Respondents to restore the pay of the petitioner to and allow the increments, as per the date of entry from April month and allow subsequent increments and also fix the correct pay as per the scales applicable, duly correcting the erroneous pay fixed, hereto with all the consequential benefits accrued from time to time, and to refund amount of Rs 94,789/= to the petitioner with nominal rate of interest, recovered from his salary pursuant to Annx-E.*
- c) *Grant such other relief or reliefs as this Hon'ble Court deems it fit to grant, in the facts and circumstances of the case."*



CNR: KAHC010236082021

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WP No. 19188 of 2021

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

2.1. The petitioner joined as a Junior Engineer in respondent No.1-Corporation on 21.04.1978. The respondents, in the guise of implementing the standing council circular, postponed increment of the petitioner from the month of April to May. The petitioner was working at a project site and not aware of the change affected for the drawal of the time bound promotional increment and also postponing the month of increment from April to May. After extending the revision of pay scale with effect from 01.01.2011, the petitioner's pay was re-fixed at ₹52,375/-. The petitioner was entitled for normal increment with effect from April. Instead of that, the respondents-Corporation have re-fixed and postponed the drawal of increment from the month of April to May. As per the respondents' official memorandum, the petitioner's pay was re-fixed at ₹53,555/- instead of ₹53,675/-, as per the fitment schedule, duly reducing pay at ₹120/- with



CNR: KAHC010236082021

NC: 2026:KHC:36972
WP No. 19188 of 2021

effect from 01.05.2011 as per the fitment schedule, and the next increment due was also made with effect from 01.05.2012, allowed and fixed the pay of ₹54,735/- instead of ₹54,855/-. The respondents went on re-fixing the pay scale with effect from May instead of April. The petitioner approached this Court by filing a writ petition in WP No.110372/2014 challenging the order dated 10.09.2014 passed by respondent No.2 therein. The said writ petition was allowed vide order dated 31.03.2016. Liberty was reserved to the respondent-Corporation to issue a notice to the petitioner and afford him an opportunity of personal hearing and thereafter, pass a fresh order in accordance with law; amount already recovered shall await the result of the order to be passed. Pursuant to the order passed by this Court in the aforesaid petition, the respondents addressed a letter to the petitioner on 16/18.08.2016 to file objections within 15 days of the receipt of the letter or to contact the undersigned office and submit the objections. The



petitioner submitted a reply on 03.09.2016. Petitioner sought time for furnishing a reply to the letter till 10.11.2016. The respondent has passed an order to recover the amount of ₹94,789/- from the petitioner. Aggrieved by the same, the petitioner has filed this petition.

3. Respondent Nos.1 to 4 filed a statement of objections denying the allegations made against the respondents and it is contended that, the respondents have rightly re-fixed the salary and rightly passed the impugned order. Hence, prays to dismiss the writ petition.

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

5. Learned counsel for the petitioner submits that, the petitioner has retired from service and the respondents cannot recover the said amount from the petitioner. To buttress his argument, he has placed reliance on the judgment of Hon'ble Apex Court in the case



of ***State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others¹***. He submits that, a direction may be issued to the respondents-Corporation to re-fix the salary and pay the pension along with arrears of salary and pension accrued so far. He has placed reliance on the order passed by the Co-ordinate bench of this Court in the case of ***R. Krishnoji Rao and Others Vs. The Managing Director, KPTCL and Others²***. He submits that, in the identical matter, this Court has directed to re-fix the salary and pay the benefits. Hence, on these grounds, he prays to allow the writ petition.

6. *Per contra*, learned counsel for the respondents submits that, the respondents have rightly re-fixed the salary of the petitioner. The respondents have paid excess amount to the petitioner and the respondents are entitled to recover the said amount. To buttress her arguments, she has placed their reliance on the judgment of Hon'ble

¹ (2015) 4 SCC 334

² WP No.11822/2019 and connected matters, disposed of on 13.09.2023



Apex Court in the case of ***Union of India Vs. Indian Navy Civilian Design Officers Association and Another³***. Hence, on these grounds, she 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 has joined the service of the respondents-Corporation as a Junior Engineer in 1978. The respondents went on extending the revision of pay scale from time to time and the revision of pay scale was extended with effect from May instead of effecting from April. The petitioner approached this Court in WP No. 110372 of 2014 challenging the postponement of increment from April to May and seeking for a refund amount already recovered of ₹ 94,789/-. This court, vide order dated 31.03.2016, allowed the writ petition and quashed the communication dated 10.09.2014 and a liberty was reserved to the

³ (2023) 19 SCC 482



NC: 2026:KHC:36972
WP No. 19188 of 2021

CNR: KAHC010236082021

respondent-Corporation to issue a notice to the petitioner and afford him an opportunity of personal hearing and thereafter, pass a fresh order in accordance with law; amount already recovered shall await the result of the order to be passed. After passing an order in the aforesaid petition, the respondents addressed a letter to the petitioner on 16/18.08.2016 calling for objections within 15 days of the receipt of the letter or to contact the Office. Pursuant to the letter dated 18.08.2016, the petitioner has submitted a reply on 09.11.2016 making a request that the procedure followed while granting advance time bound increment from JE to AE may be adhered in order to resolve the anomaly of the present, and to allow the increment in the month of April as per the date of entry into the service. Respondent No.1, without taking note of the reply submitted by the petitioner, has issued the impugned endorsement confirming the action taken in effecting the recovery and crediting the amount to the respondents-Corporation account.



CNR: KAHC010236082021

NC: 2026:KHC:36972
WP No. 19188 of 2021

9. The petitioner has already retired from service. The Hon'ble Apex Court in the case of State of Punjab and others such as **Rafiq Masih (White Washer)** (supra) has, in paragraph Nos.7 to 10, held as follows:

"7. Having examined a number of judgments rendered by this Court, we are of the view, that orders passed by the employer seeking recovery of monetary benefits wrongly extended to the employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover. In other words, interference would be called for, only in such cases where, it would be iniquitous to recover the payment made. In order to ascertain the parameters of the above consideration, and the test to be applied, reference needs to be made to situations when this Court exempted employees from such recovery, even in exercise of its jurisdiction under Article 142 of the Constitution of India. Repeated exercise of such power, "for doing complete justice in any cause" would establish that the recovery being effected was iniquitous, and therefore, arbitrary. And accordingly, the interference at the hands of this Court.

8. As between two parties, if a determination is rendered in favour of the party, which is the weaker of



CNR: KAHC010236082021

the two, without any serious detriment to the other (which is truly a welfare State), the issue resolved would be in consonance with the concept of justice, which is assured to the citizens of India, even in the Preamble of the Constitution of India. The right to recover being pursued by the employer, will have to be compared, with the effect of the recovery on the employee concerned. If the effect of the recovery from the employee concerned would be, more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer to recover the amount, then it would be iniquitous and arbitrary, to effect the recovery. In such a situation, the employee's right would outbalance, and therefore eclipse, the right of the employer to recover.

9. *The doctrine of equality is a dynamic and evolving concept having many dimensions. The embodiment of the doctrine of equality can be found in Articles 14 to 18 contained in Part III of the Constitution of India, dealing with "fundamental rights". These articles of the Constitution, besides assuring equality before the law and equal protection of the laws, also disallow discrimination with the object of achieving equality, in matters of employment; abolish untouchability, to upgrade the social status of an ostracised section of the society; and extinguish titles, to scale down the status of a section of the society, with such appellations. The embodiment of the doctrine of equality, can also be found*



CNR: KAHC010236082021

in Articles 38, 39, 39-A, 43 and 46 contained in Part IV of the Constitution of India, dealing with the "directive principles of State policy". These articles of the Constitution of India contain a mandate to the State requiring it to assure a social order providing justice—social, economic and political, by inter alia minimising monetary inequalities, and by securing the right to adequate means of livelihood, and by providing for adequate wages so as to ensure, an appropriate standard of life, and by promoting economic interests of the weaker sections.

10. In view of the aforestated constitutional mandate, equity and good conscience in the matter of livelihood of the people of this country has to be the basis of all governmental actions. An action of the State, ordering a recovery from an employee, would be in order, so long as it is not rendered iniquitous to the extent that the action of recovery would be more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer, to recover the amount. Or in other words, till such time as the recovery would have a harsh and arbitrary effect on the employee, it would be permissible in law. Orders passed in given situations repeatedly, even in exercise of the power vested in this Court under Article 142 of the Constitution of India, will disclose the parameters of the realm of an action of recovery (of an excess amount paid to an



employee) which would breach the obligations of the State, to citizens of this country, and render the action arbitrary, and therefore, violative of the mandate contained in Article 14 of the Constitution of India."

From the bare reading of the judgment passed by the Hon'ble Apex Court in the aforesaid case, it clearly discloses that, an action of the State ordering the recovery from an employee, would be in order, so long as it is not rendered iniquitous to the extent that the action of recovery would be more unfair, more wrongful, more improper and more unwarranted, than the corresponding right of the employer, to recover the amount.

10. In the instant case, it is not the case of the respondents that the petitioner has drawn the salary by playing fraud. Hence, the respondents committed an error in passing an order to recover the amount from the petitioner. Considering the proposition laid down by the Hon'ble Apex Court in the case of **Rafiq Masih (White Washer)** (supra), the respondents are not entitled to recover the said amount.



11. Learned counsel for the petitioners prays to issue a direction to the respondents to re-fix salary and pay his pension along with arrears of salary and pension accrued so far. Learned counsel for the respondents-Corporation submits that, the petitioner is not entitled for re-fixation of salary and pension along with the arrears of alleged salary. Learned counsel for the petitioner has placed reliance on the order passed by the Co-ordinate Bench of this Court in the case of ***R. Krishnoji Rao*** (supra), wherein the Co-ordinate Bench has directed to re-fix the salary of the petitioners therein by granting them the additional annual increment and consequently, also re-fix and pay their pension along with the arrears of salary and pension accrued so far. The said order was passed against the same respondents. The order passed in the case of ***R. Krishnoji Rao*** (supra) has attained finality. The respondents are liable to re-fix the salary of the petitioner by granting him the additional annual increment and all



consequentially, also re-fix and pay his pension along with the arrears of salary and pension accrued so far.

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

ORDER

- i. The writ petition is ***allowed***;
- ii. The impugned endorsements dated 04.08.2014 vide Annexure-C and 06.03.2017 vide Annexure-O are hereby ***quashed***;
- iii. The respondents are directed to re-fix the salary of the petitioner by granting him an additional annual increment and consequently, pay his pension along with the arrears of salary and pension accrued so far within a period of 3 months from the date of receipt of a certified copy of this order;
- iv. Pending IA(s), if any, shall stand disposed of.

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