

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 8TH DAY OF JULY, 2026**

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 10931 OF 2023 (S-KSAT)

BETWEEN:

1. THE STATE OF KARNATAKA
REP BY ITS DEPUTY COMMISSIONER,
KOLAR DISTRICT,
KOLAR.
2. THE JOINT DIRECTOR
SOCIAL WELFARE DEPARTMENT,
KOLAR DISTRICT, KOLAR.
3. THE ASSISTANT DIRECTOR
SOCIAL WELFARE,
BANGARPET TALUK,
KOLAR DISTRICT, KOLAR-563114

...PETITIONERS

(BY SRI. REUBEN JACOB, AAG A/W
SRI. HARISHA A.S., AGA)

AND:

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

SMT. G. RATHNA
D/O SRI. GOLAPARAJU,
AGED ABOUT 55 YEARS,
WORKING AS HOSTEL SUPERINTENDENT,
GOVT. BOYS HOSTEL,
BUDIKOTE, BANGARPET TALUK,
KOLAR DISTRICT,
R/O BUDIKOTE, NEAR HOSTEL,
BANGARPET - 563 114.

...RESPONDENT

(BY SRI. RANGANATHA S.JOIS, ADV.)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS ISSUE A
WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR
ORDER/DIRECTION TO SET ASIDE THE IMPUGNED ORDER DATED

17/01/2023 PASSED BY THE HON'BLE KSAT, BENGALURU IN APPLICATION NO.169/2022 VIDE ANNEXURE-A AND ISSUE ANY OTHER APPROPRIATE WRIT, ORDERS, DIRECTIONS AND ETC.,.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **22.06.2026** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE RAJESH RAI K

CAV ORDER

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

The State in the Department of Social Welfare is before this Court in this writ petition, questioning the order dated 17.01.2023 in Application No.169/2022 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') whereunder the respondent's application is allowed quashing the order of relieving the respondent from service with a direction to reinstate the respondent into service with all monetary benefits.

2. Brief facts of the case are that, respondent No.1 joined service as a daily wager on 26.06.1985 and at the time of her appointment on daily wage basis, the respondent had entered her date of birth as 15.03.1967. The order of appointment of the petitioners had made it

clear that the candidates appointed shall produce their original documents relating to their age, qualification, caste certificate and income certificate to the District Officer for SC/ST Welfare or Development Officer. It is the case of the respondent that her SSLC marks card did not indicate the date of birth and she produced certificate from District Surgeon, Kolar with regard to her age. It is the case of the petitioner before the Tribunal that they obtained documents from Karnataka Secondary Education Examination Board and also transfer certificate from her school which indicated date of birth as 15.03.1961. It is further stated by the petitioners that several notices were issued to the respondent, calling upon her to submit documents in respect of her date of birth as 15.03.1967. As the respondent failed to submit any document or to reply to the notices issued by the petitioners, Office Order dated 31.12.2021 (Annexure-A10) was issued to the respondent relieving her from duties on the afternoon of 31.12.2021, stating that she has attained the age of superannuation i.e., 60 years. Questioning the said office

order, the respondent was before the Tribunal in the above-stated Application and under impugned order, the Tribunal allowed the application with a direction to reinstate the respondent into service with all financial benefits. Questioning the said order, the State is before this Court.

3. Heard learned Additional Advocate General Sri.Reuben Jacob along with learned Additional Government Advocate Sri.V.Shivareddy for petitioners and learned counsel Sri.Ranganath Jois for respondent. Perused the entire writ petition papers.

4. Learned Additional Advocate General Sri.Reuben Jacob would submit that the Tribunal committed a grave error in allowing the respondent's application and quashing the order of relieving dated 31.12.2021 and in directing the petitioners to reinstate the respondent with all monetary benefits. He would submit that the respondent had furnished false date of birth while she was appointed on daily wage basis and he further

submits that the respondent continued as a daily wager and attained the age of superannuation. Learned Additional Advocate General would submit that since the respondent is not a permanent Government servant or the holder of a civil post, the Karnataka State Servants (Determination of Age) Act, 1974 would have no application and no enquiry would be necessary to relieve the respondent on her attaining the age of superannuation i.e., 60 years. Learned Additional Advocate General would submit that the respondent was given sufficient opportunity by issuing notices and the respondent neither submitted any reply to the said notices nor submitted any documents to prove her date of birth as 15.03.1967. However, he submits that before the Tribunal the respondent furnished along with memo the birth certificate, which indicated her date of birth as 15.03.1967 and the petitioners had no opportunity to rebut the said document. However, learned Additional Advocate General would fairly submit that the petitioners are open for

conducting any enquiry, if this Court were to direct such enquiry.

5. *Per contra*, learned counsel Sri.Ranganath Jois for respondent would submit that the date of birth insofar as the respondent is concerned was entered when she was appointed on daily wage basis in the year 1985 as 15.03.1967 and the same continued for a long period i.e., till 2021. Therefore, without providing proper opportunity or without conducting any enquiry the petitioners could not have relieved the respondent from service. It is submitted that as no enquiry was conducted and based on the birth certificate produced by the respondent before the Tribunal, the tribunal has rightly directed the reinstatement of the respondent by quashing the order of relieving. Learned counsel would submit that this Court in a decision reported in **1999 (6) KLJ 445, (BASAVARAJ VS. STATE OF KARNATAKA AND OTHERS)** has held that the Act, 1974 would have application even to a temporary or contractual appointee and as such before relieving the respondent, the petitioners ought to have

conducted enquiry as contemplated under Act, 1974. Learned counsel for the respondent would submit that the action of the petitioners in relieving her from service under impugned order is totally in violation of principles of natural justice and without looking into the documents placed on record by respondent i.e., the voter's identity card and medical certificate. Thus, he would pray for dismissal of the writ petition.

6. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition papers, the following points would arise for our consideration:

- (i) Whether the Act, 1974 would have application to a daily wage or temporary employee or contractual employee?
- (ii) Whether enquiry was necessary before relieving the respondent from service under impugned office order dated 31.12.2021?
- (iii) Whether the impugned order passed by the Tribunal warrants interference?

7. Answer to the above points would be in the 'Negative', 'Affirmative' and 'Affirmative', respectively, for the following reasons:

Act, 1974 is brought into force from 15.06.1974 to provide for determination of the age of State servants insofar as it relates to the conditions of service. The Act would apply, in terms of Section 2-definition clause, to persons who hold a Civil Post under the State of Karnataka. In other words, Section 2 defines State Servant as a person who holds a civil post under the State of Karnataka. Section 3 provides for determination of age on entry into State Service. Section 4 of Act, 1974 bars alteration of age except under the Act. Section 5 provides the procedure for alteration of age or date of birth of a State Servant. Under Section 5, the State Government may at any time, after an enquiry, alter the age and date of birth of a State Servant as recorded or deemed to have recorded in the service register. However, for a Government Servant to seek alteration of age or date of birth, limitation or time is fixed i.e., no such alteration to

the advantage of a State servant shall be made unless he has made an application for the purpose, within 3 years from the date on which his age and date of birth is accepted and recorded in the service register or book, or within 1 year from the date of commencement of the Act, whichever is later.

8. Be that as it may. In the instant case, the question is as to whether the Act, 1974 would have application to the facts of the present case. Learned counsel for the respondent Sri.Ranganath Jois placing reliance on **BASAVARAJ**(supra) submitted that Act,1974 would have application even to temporary or contractual appointee. We have gone through the said decision. In paragraph 7, it would state that civil servant includes not only persons who hold a substantive or permanent post, but also persons who hold temporary or contractual appointment, referring to Section 2, i.e., State Servant. However, Section 2 defines State Servant to mean a person who holds a civil post under the State of Karnataka. To apply the provisions of Act, 1974, one

should hold a Civil Post under the State of Karnataka. Moreover, respondent herein has not been regularized and has retired from service on attaining the age of superannuation in the status of daily wager. Therefore, the respondent cannot be considered as holder of civil post. As such, she is not a State servant to attract the provisions of Act, 1974. As the learned Single Judge in **BASAVARAJ** (supra) has overlooked the definition of State Servant as defined under Section 3 of Act, 1974, the said decision insofar as holding the temporary or contractual appointees as State servants is not proper. In view of the above, we hold that Act, 1974 would have no application to daily wagers or temporary employees or contractual employees. Accordingly the point is answered in the negative.

9. The respondent is relieved under impugned Office Order dated 31.12.2021 (Annexure-A10) noting that the respondent failed to reply to the notices dated 28.10.2021, 09.11.2021 and 01.12.2021 or submitted any documents to prove her date of birth as 15.03.1967. The impugned order of the Tribunal indicates that the

respondent along with memo dated 07.07.2022 had produced birth certificate which indicated the date of birth of respondent as 15.03.1967. Today, during the course of hearing, the learned counsel for the respondent has made available a copy of the birth certificate and submitted that the date of birth of the respondent is 15.03.1967. However, the respondent has neither replied to the notice nor submitted the birth certificate before the petitioner authorities. The petitioner authorities had no occasion to consider the said birth certificate.

10. The respondent is relieved under Office Order dated 31.12.2021 (Annexure-A10), which would amount to terminating the respondent. Termination or relieving of the respondent except on superannuation shall be only upon conducting enquiry and on providing an opportunity to the concerned Government servant. In the instant case, admittedly at the time of appointment of the respondent, date of birth was entered as 15.03.1967 and the same was continued for a very long time till 2021. In that circumstance, without conducting a formal enquiry, the

petitioners/State could not have relieved or terminated the services of the respondent, that too, when the respondent has produced birth certificate to indicate that her date of birth is 15.03.1967. However, the genuineness of the said document is to be proved by the respondent. It is also seen that the petitioners/State also has documents such as school records to indicate the date of birth of the respondent as 15.03.1961. In the above circumstances, it needs a proper enquiry to come to a logical conclusion or to determine the correct date of birth of the respondent.

11. The Tribunal under impugned order proceeded to allow the application solely based on the birth certificate of respondent without looking into any other material and also on the ground that the date of birth of the respondent has been entered and continued for long period. For the reasons recorded above, we are of the considered opinion that the petitioners/State ought to have conducted a formal enquiry after providing an opportunity to the respondent.

12. Learned counsel for the respondent submitted that the respondent would be entitled for reinstatement since the order passed by the petitioners are without jurisdiction and without conducting any enquiry. However, learned Additional Advocate General submitted that if an enquiry is ordered, the reinstatement of respondent would be subject to the outcome of the enquiry and he submits that if the respondent succeeds she would be entitled for all consequential benefits.

13. We have considered the above submissions and we are of the considered opinion that the re-instatement and other consequential benefits to the respondent would depend on the outcome of the enquiry to be conducted by petitioners as directed below. If the State were to succeed in proving that the respondent's date of birth is 15.03.1961, the respondent would not be entitled for reinstatement and only if the respondent proves that her date of birth is 15.03.1967, the respondent would be entitled for reinstatement, the reinstatement, at this stage, would be inappropriate.

14. For the reasons recorded above, the order of the Tribunal is modified and the following direction is issued:

- a) Impugned relieving order bearing No.ಸನಿ/ಸಶಇ/ಬಂ.ಪೇಟೆ/ಸಿ.ಆರ್ - 2021-22 dated 31.12.2021 (Annexure-A10) is quashed.
- b) The petitioners/State is directed to conduct appropriate enquiry after affording an opportunity to respondent and pass appropriate order on the report to be submitted by the Enquiry Officer.
- c) The reinstatement as well as financial benefits to the respondent would depend on the outcome of the enquiry.
- d) Time for compliance: Four months from today, subject to the co-operation by the respondent.

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

**Sd/-
(RAJESH RAI K)
JUDGE**