

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF SEPTEMBER, 2026**

PRESENT

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

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO. 9326 OF 2021 (S-KSAT)

BETWEEN:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF ANIMAL HUSBANDRY
AND FISHERIES, VIKASA SOUDHA,
BENGALURU- 560 001
KARNATAKA.
2. THE COMMISSIONER,
ANIMAL HUSBANDRY AND VETERINARY
SERVICES DEPARTMENT,
2ND FLOOR, V.V. MINI TOWER,
BENGALURU- 560 001
KARNATAKA.

...PETITIONERS

(BY SRI. REUBEN JACOB, AAG A/W
SRI B.S. SUDHINDRA, HCGP)

Digitally signed by
NANJUNDACHARI
Location: High
Court of
Karnataka

AND:

1. SRI SATHEESH M D
AGED ABOUT 69 YEARS,
S/O LATE M.D. RAMACHANDRA RAO,
DEPUTY MANAGER (QUALITY CONTROL)
(NOW RETIRED FROM SERVICE)
R/AT FLAT NO. 302,
SITE NO. 1362/1370,
51ST CROSS, 42ND MAIN,
POORNAPRAGNA NAGARA,
UTTARAHALLI, BENGALURU-560 061
KARNATAKA.

2. SRI. N. DATTATREYA,
AGED ABOUT 69 YEARS,
S/O. LATE NARAYANAIAH,
DEPUTY MANAGER (PRODUCTION)
(NOW RETIRED FROM SERVICE),
R/AT NO. 108, 34TH B CROSS,
11TH MAIN, 4TH T BLOCK,
JAYANAGAR, BENGALURU-560 041.
3. SRI. H. N. SUDHAKAR
AGED ABOUT 66 YEARS,
S/O LATE SRI.H.S. NARASIMHAMURTHY,
ADDITIONAL DIRECTOR,
(NOW RETIRED FROM SERVICE)
R/AT NO. 53-54, AASHIRVADA
5TH CROSS, SIMHADRI LAYOUT,
UTTARAHALLI, BENGALURU-560 061
KARNATAKA.

...RESPONDENTS

(BY SRI. O.K. ANANTHA KRISHNAN, ADV. FOR
SRI V.S. NAIK, ADVS.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS PERTAINING TO THE ORDER DATED 17.12.2019. PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT BENGALURU IN APPLICATION NO.813/2018 C/W A.NO.4491/2017 AND 5719/2017 VIDE ANNEX-A AND CONSEQUENTIALLY DISMISS THE APPLICATION NO.813/2018 C/W A.NO.4491/2017 AND 5719/2017 FILED BY THE RESPONDENTS BEFORE THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL BENGALURU.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **09.09.2026** COMING ON THIS DAY, **S.G.PANDIT J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

CAV JUDGMENT

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

The petitioners-State Authorities in the department of Animal Husbandry and Fisheries are before this Court, questioning the order dated 17.12.2019 in Application No.813/2018 c/w Application No.4491/2017 and Application No.5719/2017 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short "Tribunal") whereunder, the Tribunal passed the following order:

ORDER

(i) *The applications are hereby allowed.*

(ii) *In A.No.813/2018, the communication dated 03.11.2017 vide Annexure-A12 issued by the second respondent. In A.No.4491/2017, the endorsement dated 19.03.2014 vide Annexure-A12 issued by the first respondent and in A.No.5719/2017, the endorsement dated 04.02.2016 vide Annexure-A14 issued by the second respondent, are quashed.*

(iii) *The respondents are directed to extend the pensionary benefits to the applicants retrospectively w.e.f. 01.07.2008, 12.11.2009 and 01.02.2013 retrospectively on par with similarity situated persons and also as ordered in number of*

judgments of this Tribunal, Hon'ble High Court and Hon'ble Supreme Court cited above.

(iv) This exercise shall be completed within a period of four months from the date of receipt of a copy of this order."

2. The parties would be referred to as they stood before the Tribunal.

3. The applicant in Application No.813/2018 claims that he was appointed as Quality Control Assistant by order dated 03.01.1975 by the then Director, Bangalore Dairy. In the year 1975, the Government of Karnataka formed a Company known as "Karnataka Dairy Development Corporation Limited" (for short "Corporation"). By Government Order dated 06.11.1992, the Government transferred the Bangalore Dairy to the newly formed Corporation. It is further submitted that, subsequently the Government handed over the Dairies to respective District Co-operative Milk Producers' Union Limited. In terms of settlement arrived at by the Employees Union, the Government and the Federation, the Dairies under the Management of Federation were handed over to the

respective Milk Unions. Further, the applicant would claim that he was promoted as Assistant Manager/Shift Officer by order dated 28.08.1992. It is the case of the applicant that he resigned from service by submitting letter dated 31.03.2008 which was accepted and he was relieved on 01.07.2008. The acceptance of resignation was by the Managing Director of Dharwad Co-operative Milk Producers' Societies Union Limited, Dharwad. It is the case of the applicant that as on the date of acceptance of his resignation, he had completed blemish less service of 33 years 4 months and 27 days. The applicant made a representation claiming pension and pensionary benefits on the ground that he was initially appointed to Corporation Limited and thereafter he was transferred to Milk Union and hence he would be entitled for pension. It is the further case of the applicant that similarly situated persons are granted pension.

4. The applicant in Application No.4491/2017 claims that he was appointed by the Government in the year 1969 and after completing blemish less service of 40

years, he resigned from the post of Deputy Manager at Dharwad District Milk Union on medical grounds.

5. The Applicant in Application No.5719/2017 claims that he was initially appointed as Veterinary Assistant Surgeon vide order dated 12.01.1978 by the Director, Animal Husbandry and Fisheries Services in Karnataka. On formation of the Corporation, the Corporation by employment notification dated 07.02.1980 called for applications to fill up various posts including that of Veterinary Officer. The applicant was selected and appointed on 14.11.1980 as Veterinary Officer in the Corporation. Thereafter, the applicant claims that employees working in the Corporation stood assigned to the newly created Federation i.e., Karnataka Milk Federation. This applicant is also said to have submitted letter of resignation on 08/09.10.2012 and the same was accepted and he was relieved by Relieve Order dated 27.01.2014. It is the case of the applicant that before acceptance of his resignation, he had submitted a letter to

treat the letter of resignation as letter of voluntary retirement.

6. Since the applicants were not granted pension and pensionary benefits, they approached the Tribunal, questioning the letters denying the pension and pensionary benefits with a prayer for a direction to the respondents to grant pension and pensionary benefits placing reliance on the decision of the tribunal in Application Nos.1424-1446/2006 (M.G.SIDDAIAH AND 22 OTHERS v/s STATE OF KARNATAKA AND OTHERS). The Tribunal under impugned order allowed the applications and granted the above extracted reliefs. Questioning the said order, the State Authorities in Animal Husbandry and Fisheries are before this Court in this writ petition.

7. Heard learned Additional Advocate General Sri.Reuben Jacob for petitioner-State Authorities and learned counsel Sri.O.K.Anantha Krishnan for Sri.V.S.Naik, learned counsel for respondents. Perused the entire writ petition papers.

8. Learned AAG Sri.Reuben Jacob for petitioner-State Authorities would submit that the applicants resigned from the posts they were holding in Dharwad Milk Union in respect of two applicants and one applicant from KMF. Their resignations were accepted and they were relieved. He contends that in terms of Rule 252 of KCSRs, once a government servant submits his resignation and when it is accepted, their service would be forfeited. When their resignation is accepted and when their service is forfeited, they would not be entitled for pension and pensionary benefits. Furthermore, learned AAG Sri.Reuben Jacob would submit that the applicants cannot claim parity with others who were similarly transferred from the Corporation or Milk Unions, for the reason that they continued their service in Milk Unions and retired from service unlike the applicants who resigned from service. Learned AAG would refer to the documents filed along with the memo filed on 09.09.2026 and would submit that resignation of Sri.M.D.Satheesh, the applicant in Application No.813/2018 was accepted and he was relieved on

01.07.2008. Similarly, the resignation of the applicant in Application No.4491/2017 was accepted and he was relieved by order dated 12.11.2009 so also the resignation of the applicant in Application No.5719/2017 was accepted and was relieved by Relieve Order dated 27.01.2014. Therefore, he submits that a person who resigns from service would not be entitled for any pension or pensionary benefits.

9. Per contra, learned counsel Sri.Anantha Krishnan would submit that the applicants rendered services for more than 25 years in the Milk Unions and similarly situated employees are granted pension and pensionary benefits. Learned counsel would submit that the persons who had resigned like applicants are also granted pension and pensionary benefits. Learned counsel would refer to the Government Order dated 10.05.2013 (Annexure-A12) whereunder, certain of the employees of Milk Unions are treated as government servants and granted pension and pensionary benefits.

10. Insofar as the applicant in Application No.5719/2017 is concerned, learned counsel for the applicant submits that before acceptance of the resignation of the applicant Sri.H.N.Sudhakar, he had made an application to treat the letter of resignation as Voluntary Retirement, however, the respondent-authorities failed to consider the same. Therefore, he would submit that acceptance of resignation and denial of pension and pensionary benefits is wholly arbitrary. Thus, he would support the order passed by the Tribunal.

11. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, we are of the considered view that the petitioner-State has made out grounds to interfere with the impugned order passed by the Tribunal.

12. No doubt, the applicant in Application No.813/2018 and the applicant in Application No.4491/2017 were initially appointed in the department of Animal Husbandry and Veterinary Sciences. However, on formation of the

Corporation, they were transferred to the Corporation and subsequently to the Milk Unions. It is true that the Government, under Government Order dated 10.05.2013 (Annexure-A12) sanctioned pension to those persons who were transferred from government service to Corporation and retired from Milk Union service. The pension and pensionary benefits were granted to those persons who continued in the Milk Union service and retired from service, unlike the applicants herein who submitted their resignations and on acceptance of their resignation, they were relieved from duties.

13. Rules 252 of KCSRs reads as follows:

"252 (a) *Resignation of the public service, or dismissal or removal from it for misconduct, insolvency, inefficiency, but not due to age, or failure to pass a prescribed examination entails forfeiture of past service.*

(Note: - xxxx)

(Exception. – *The provisions of this Rule regarding forfeiture of past service due to resignation of public service shall not apply to the cases of retirement or death while in service of a*

Government servant on or after the 19th September, 1974)

(b) Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.)

(x x x x)

(252-A – x x x x)

14. The above provision makes it abundantly clear that on resignation or dismissal or removal entails forfeiture of past service. When once the past service is forfeited, such Government servant would not be entitled for pension or pensionary benefits since he would have no qualifying service at his credit. The documents produced by petitioners-State Authorities along with the memo dated 09.09.2026, i.e., relieving order dated 01.07.2008 of Dharwad Co-operative Milk Producers Union Limited, Dharwad indicates the acceptance of resignation of applicant in Application No.813/2018 Sri.M.D.Satheesh and relieved on acceptance of resignation.

15. Relieving order dated 12.11.2009 of Dharwad Co-operative Milk Producers Union Limited, Dharwad establishes the acceptance of resignation of Sri.N.Dattatreya, applicant in Application No.4491/2017 and relieving him from duties.

16. The relieving order dated 27.01.2014 of Karnataka Co-operative Milk Federation Limited, Central Office, Bangalore establishes acceptance and relieving of Dr.H.N.Sudhakar, applicant in Application No.5719/2017.

17. Learned counsel for the applicants made effort to contend that by letter dated 08.08.2016 of the Managing Director of the Union, it was directed to treat the letter of resignation as voluntary retirement application. The said letter is much subsequent to the acceptance of resignation of the applicant in Application Dr.H.N.Sudhakar on 27.01.2014. However, the applicant in Application No.5719/2017 has not questioned the acceptance of resignation at any point of time. The applicants cannot be compared with any other Milk Union employees who are

granted pension and pensionary benefits since all those persons continue in service in the Milk Union and retired from service on superannuation, whereas the applicants, as stated above submitted their resignations which were accepted and they were relieved. A person who resigns from service as stated above, forfeits his service and would not be entitled for pension or pensionary benefits.

18. The Tribunal committed a grave error in following the decision in **ASGER IBRAHIM AMIN V/S LIFE INSURANCE CORPORATION OF INDIA [Civil Appeal No.10251/2014]** and coming to the conclusion that though the expressions 'superannuation', 'voluntary retirement', 'compulsory retirement' and 'resignation' convey different connotations and ultimately come to the conclusion that all are similar in nature.

19. The Hon'ble Apex Court in **BSES YAMUNA POWER LIMITED v/s GHANSHYAM CHAND SHARMA AND ANOTHER** reported in **(2020) 3 SCC 346** on considering

ASGER IBRAHIM AMIN case (supra) at paragraphs 11, 12 and 13 has observed as follows:

11. *The Court noted that, if the approach followed in Asger Ibrahim Amin [Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797 : (2015) 3 SCC (L&S) 12] was adopted in interpreting the LIC Pension Rules, an employee who resigned after the enactment of the Rules would not be entitled to pensionary benefits but an employee who had resigned when the Rules were not in force, but had completed the prescribed period of service for voluntary retirement, would be entitled to pensionary benefits. Such an outcome could not be countenanced and would render nugatory the provision which stipulated that upon resignation, past service stood forfeited.*

12. *The Court in Shree Lal Meena (2) [LIC v. Shree Lal Meena, (2019) 4 SCC 479 : (2019) 1 SCC (L&S) 713] elucidated the distinction between resignation and voluntary retirement in the following terms : (SCC pp. 491-92, para 22)*

"22. ... [quoting RBI v. Cecil Dennis Solomon [RBI v. Cecil Dennis Solomon, (2004) 9 SCC 461 : 2004 SCC (L&S) 737] , SCC pp. 467-68, para 10]

'10. In service jurisprudence, the expressions "superannuation", "voluntary retirement", "compulsory retirement" and "resignation" convey different connotations. Voluntary retirement and resignation involve voluntary acts on the part of the employee to leave service. Though both involve voluntary acts, they operate differently. One of the basic

distinctions is that in case of resignation it can be tendered at any time, but in the case of voluntary retirement, it can only be sought for after rendering the prescribed period of qualifying service. Another fundamental distinction is that in case of the former, normally retiral benefits are denied but in case of the latter, the same is not denied. In case of the former, permission or notice is not mandated, while in the case of the latter, permission of the employer concerned is a requisite condition. Though resignation is a bilateral concept, and becomes effective on acceptance by the competent authority, yet the general rule can be displaced by express provisions to the contrary.”

The above observations highlighted the material distinction between the concept of resignation and voluntary retirement. The Court also observed that while pension schemes do form beneficial legislation in a delegated form, a beneficial construction cannot run contrary to the express terms of the provisions : [Shree Lal Meena (2) case [LIC v. Shree Lal Meena, (2019) 4 SCC 479 : (2019) 1 SCC (L&S) 713] , SCC p. 495, para 26]

"26. There are some observations on the principles of public sectors being model employers and provisions of pension being beneficial legislations (see Shashikala Devi v. Central Bank of India [Shashikala Devi v. Central Bank of India, (2014) 16 SCC 260 : (2015) 3 SCC (L&S) 319] ; Asger Ibrahim Amin v. LIC [Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797 : (2015) 3 SCC (L&S) 12]). We may, however, note that as per what we have opined aforesaid, the issue cannot be dealt with on a charity principle. When the legislature, in its wisdom,

brings forth certain beneficial provisions in the form of Pension Regulations from a particular date and on particular terms and conditions, aspects which are excluded cannot be included in it by implication."

13. *The view in Asger Ibrahim Amin [Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797 : (2015) 3 SCC (L&S) 12] was disapproved and the Court held that the provisions providing for voluntary retirement would not apply retrospectively by implication. In this view, where an employee has resigned from service, there arises no question of whether he has in fact "voluntarily retired" or "resigned". The decision to resign is materially distinct from a decision to seek voluntary retirement. The decision to resign results in the legal consequences that flow from a resignation under the applicable provisions. These consequences are distinct from the consequences flowing from voluntary retirement and the two may not be substituted for each other based on the length of an employee's tenure."*

The Hon'ble Apex Court has categorically held that there is material distinction between the concept of resignation and voluntary retirement. It has further observed that the decision to resign results in the legal consequences that flow from a reason under the applicable provisions.

20. Thus, for the reasons recorded above, the petitioner-State has made out grounds to allow the writ petition. Accordingly, the following order:

(i) The writ petition is ***allowed***.

(ii) The order dated 17.12.2018 passed by the Tribunal in Application No.813/2018 C/W Application No.4491/2017 and Application No.5719/2017 are set aside and applications stand dismissed.

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

**Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE**

MPK
CT:bms