



CNR: KAHC010278162023

NC: 2026:KHC:51865-DB
WP No. 11704 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO. 11704 OF 2023 (S-KSAT)

BETWEEN:

SHRI. B.G. NAGARAJ,
S/O LATE RUDRAPPA,
AGED ABOUT 70 YEARS,
RETIRED SHERISTEDAR (ELECTION),
REVENUE DEPARTMENT,
R/A NO.1733/1, 6TH MAIN,
D BLOCK, RAJAJINAGAR,
BANGALORE-560010.

...PETITIONER

(BY SRI. SHIVASHANKAR S.K., ADVOCATE FOR
SRI. S.Y. KUMBAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REP BY CHIEF SECRETARY,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE-560001.
2. THE SECRETARY
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE-560001.

Digitally signed
by AASEFA
PARVEEN

Location: HIGH
COURT OF
KARNATAKA



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3. THE SECRETARY
DEPARTMENT OF PERSONNEL,
AND ADMINISTRATIVE REFORMS,
VIDHANA SOUDHA,
BANGALORE-560001.

...RESPONDENTS
(BY SRI. VIKAS ROJIPURA, AGA FOR R1 TO R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI BY QUASHING THE ORDER PASSED BY THE HONBLE KSAT A.No-5944/2022 BANGALORE DATED 27.03.2023 AS PER THE ANNEXURE-A AND CONSEQUENTLY ALLOW THE A.No-5944/2022 FILED BY THE PETITIONER VIDE ANNEXURE-B DATED 10.11.2022.

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

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



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ORAL ORDER

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

Heard learned counsel Sri.Shivashankar S.K. for learned counsel Sri.S.Y.Kumbar for petitioner and learned AGA Sri.Vikas Rojipura for respondents No.1 to 3.

2. Petitioner, unsuccessful applicant before the Tribunal is before this Court questioning order dated 27.03.2023 in Application No.5944/2023 passed by the Karnataka State Administrative Tribunal at Bengaluru, for short "the Tribunal", whereunder the petitioner's request to quash order dated 02.08.2021 (Annexure-A3), rejecting the request of the petitioner to promote him to the cadre of Tahsildar Grade-II from the date he became eligible i.e. on 27.04.2013 by passing relevant departmental examination is rejected.

3. Learned counsel for the petitioner would submit that the case of the petitioner was not considered for promotion to the cadre of Tahsildar Grade-II from the cadre of Shirasthedar only on the ground that he has not passed relevant departmental examination. Learned counsel would



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submit that the petitioner passed all relevant departmental examination on 27.04.2013 and when he became eligible for consideration of his case for promotion, the respondents ought to have considered his case for promotion to the cadre of Tahsildar Grade-II and non consideration of his case for promotion when he became eligible, is wholly arbitrary and unreasonable. Learned counsel would submit that the petitioner retired on attaining the age of superannuation on 30.09.2013 and further he submits that during the period from 27.04.2013 when he became eligible for promotion till his retirement on 30.09.2013 there were vacancies of Tahsildar Grade-II and as such the respondents were obliged to consider his case for promotion and to promote petitioner to the cadre of Tahsildar Grade-II as he was otherwise eligible in all other respects.

4. Per contra, learned AGA Sri.Vikas Rojipura, would submit that no Government servant has a right to seek promotion and he would further submit that right is only for consideration of his case for promotion. Learned counsel files Memo dated 21.09.2026 enclosing Official Memorandum dated 07.04.2020 whereunder seniority list of Shirasthedar was



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published and also Notification dated 02.06.2026 publication of seniority list of Tahsildar Grade-II. From the said seniority list learned AGA would point out that no juniors of the petitioner was promoted during the period from 27.04.2013 and 30.09.2013. Hence, he would submit that mere existence of vacancy would not give right to the petitioner to seek for promotion. Further, learned AGA would place reliance on the decision of the Hon'ble Apex Court in the case of *Bihar State Electricity Board and Others Vs. Dharamdeo Das, 2024 SCC OnLine SC 1768*. Thus, he would pray for dismissal of the writ petition.

5. Having heard the learned counsels for the parties and on perusal of the entire writ petition papers we are not inclined to interfere with the impugned order passed by the Tribunal.

6. It is an admitted fact that the petitioner was not eligible for promotion till 27.04.2013, the date on which he cleared or passed all the required departmental examination. Prior to the petitioner becoming eligible for promotion many of his juniors were promoted. However, after the petitioner



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became eligible for promotion by passing departmental examination, no junior of the petitioner was promoted to the next higher cadre of Tahsildar Grade-II nor the DPC was convened to promote the Shirasthedar to the cadre of Tahsildar Grade - II.

7. It is true that as contended by the learned AGA, no Government servant has fundamental right to promotion, but however, a Government servant has a right for consideration of his case for promotion. The Hon'ble Apex Court in *Bihar State Electricity Board and others supra* was considering promotion and retrospective promotion of an employee of the Bihar State Electricity Board and in the course of the said judgment at paragraphs 22 and 23 it has held as follows:

"22. The spirit behind elevating the right for being considered for promotion to a fundamental right is enshrined in the principle of "equality of opportunity" in relation to matters of employment and appointment to a position under the State. Once employed, the employees are entitled for being considered for promotion to the next higher post subject to their satisfying the eligibility criteria, as per the applicable rules. Failure to consider an employee for promotion even after



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satisfying the eligibility criteria would violate her fundamental right. However, a clear distinction has been drawn between the stage of considering an employee for being promoted to taking the net step of recognizing the said right as a vested right for promotion. That is where the line has to be drawn. Stated differently, a right to be considered for promotion being a facet of the right to equal opportunity in employment and appointment, would have to be treated as a fundamental right guaranteed under Articles 14 and 16(1) of the Constitution of India but such a right cannot translate into a vested right of the employee for being necessarily promoted to the promotional post, unless the rules expressly provide for such a situation.

23. The view that seniority can neither be reckoned from the date when a vacancy arises, nor can it be granted retrospectively unless service rules specifically provide for such a situation, is fortified by the decision of this Court in *K.K.Vadera* ¹⁴ (supra) which has emphasised in no uncertain terms the settled position in law that promotion to a post should only be granted from the date of the promotion and not from the date on which a vacancy may have arisen. In *Ganga Vishan Gujarati v. State of Rajasthan*-²³, this Court had reiterated the principle that retrospective seniority cannot be granted to an employee from the date



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when she was not even borne on the cadre. This principle has been built upon by a line of precedents starting with the decision of the Constitution Bench of this Court in *Direct Recruit Class II Enggl. Officers' Assn. v. State of Maharashtra*-24, followed in *Akhouri Sachindra Nath*-17 (Supra), *Dinesh Kumar Sharma*-16 (Supra) and several other cases."

8. In the light of the above decision as well as reasons recorded above, we don't find any merit in the writ petition.

Accordingly, writ petition stands rejected.

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

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

AP
CT:TSM
List No.: 1 Sl No.: 17