

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.12390 OF 2025 (S-KSAT)

BETWEEN:

SRI H R NAGARAJU
S/O LATE RUDRAPPA,
AGED ABOUT 54 YEARS,
WORKING AS POLICE CONSTABLE,
CIVIL POLICE CONSTABLE NO.1073
(NOW UNDER THE ORDER OF DISCHARGE)
AVALAHALLI POLICE STATION
BENGALURU DISTRICT,

RESIDING AT NO.2,
POLICE QUARTERS, 'B' BLOCK,
NEAR GEF EYE HOSPITAL,
AIR EXTENSION, HOSAKOTE,
BENGALURU RURAL-562114.

...PETITIONER

(BY SRI. AKSHAY RAMACHANDRA HUDDAR, ADV.)

Digitally signed by
NANJUNDACHARI
Location: High
Court of
Karnataka

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
HOME DEPARTMENT,
VIDHANASOUDHA,
DR. AMBEDKAR ROAD,
BENGALURU-560001.
2. THE INSPECTOR GENERAL OF POLICE
CENTRAL RANGE,
NO.5, MILLARS ROAD,
BANGALORE-560052.

3. THE SUPERINTENDENT OF POLICE
BENGALURU DISTRICT,
NO.5, MILLARS ROAD,
BENGALURU-560052.

...RESPONDENTS

(BY SRI. K.R. RAJENDRA, AGA)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE APPROPRIATE WRIT OR ORDER IN THE NATURE OF CERTIORARI QUASHING THE ORDERS OF KARNATAKA STATE ADMINISTRATIVE TRIBUNAL PASSED IN APPLICATION NO.6022/2001 DATED 17.07.2009 AND APPLICATION NO.5299/2024 DATED 13.03.2025. THE COPIES OF WHICH ARE PRODUCED AS ANNEXURE-A4 AND D AS ILLEGAL AND VOID AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON **12.08.2026** COMING ON THIS DAY, **S.G.PANDIT J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

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

Petitioner, a discharged Police Constable is before this Court under Article 226 of the Constitution of India, questioning order dated 17.07.2009 in Application No.6022/2001 as well as order dated 13.03.2025 in Application No.5299/2024 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') rejecting his prayer to quash the order of

discharge dated 28.03.2000 (Annexure-A3) as well as order of discharge dated 19.09.2024 (Annexure-A6).

2. Brief facts leading to filing of the above writ petition are that the petitioner claims that he was recruited and appointed as Police Constable on 13.09.1996 (Annexure-A1) on probation for a period of 2 ½ years. It is submitted that on completion of 2 ½ years the case of the petitioner was recommended for confirmation by declaring his probation period. However, it is submitted that by order dated 28.03.2000 (Annexure-A3), petitioner was discharged from service invoking Rule 6(1) of the Karnataka Civil Services (Probation) Rules, 1977 (for short, 'Probation Rules'). The said order of discharge was the subject matter of application No.6022/2001 before the Tribunal. The Tribunal by order dated 17.07.2009 dismissed the Application holding that the petitioner was not selected, however, he managed to get an appointment order by illegal means.

3. Further, the Tribunal was of the opinion that the question of giving protection to the petitioner against the discharge does not arise at all as he is no one in the eyes of law to claim the right to seek remedy before the Tribunal because he was never selected or appointed legally. The petitioner has not challenged the said order passed by the Tribunal before any higher forum till filing of the present writ petition. However, even after discharge order as well as dismissal of the challenge to the discharge order, the petitioner continued to work as Police Constable. Subsequently, one more order of discharge dated 19.09.2024 was passed by respondent No.3 discharging the petitioner, invoking Rule 6(1) of Probation Rules.

4. Questioning the said order of discharge, petitioner was again before the Tribunal in Application No.5299/2024. The Tribunal under order dated 13.03.2025 dismissed the challenge of the petitioner to subsequent discharge order observing that mere continuation of petitioner even after dismissal of the

Application challenging the earlier order of discharge would not confer any right to the petitioner to continue in the post held by him. Questioning the order of the Tribunal passed on 17.07.2009 in Application No.6022/2001 as well as order dated 13.03.2025 in Application No.5299/2024, the petitioner is before this Court in this writ petition.

5. Heard learned counsel Sri.Akshay R. Huddar for petitioner as well as learned Additional Government Advocate Sri.K.R.Rajendra for respondents – State. Perused the entire writ petition papers.

6. Learned counsel Sri.Akshay R. Huddar for petitioner would submit that the petitioner was selected and appointed as Police Constable by order dated 13.09.1996 on probation for a period of 2 ½ years. He further submits that on completion of 2 ½ years probation, case of the petitioner was recommended for confirmation by declaring the probation period. However, he submits that by order dated 28.03.2000 (Annexure-A3), the petitioner was discharged from service invoking Rule 6(1)

of the Probation Rules. Learned counsel would submit that the order of discharge is not an order of discharge *simpliciter*, but it attaches stigma. Learned counsel would submit that the petitioner was discharged alleging that, though the petitioner was not eligible for appointment as Police Constable, he obtained appointment as Police Constable under 3B category. When such allegation is being imputed, it is submitted that enquiry was necessary. Further, he submits that the Tribunal at the first instance failed to appreciate the contentions of the petitioner and dismissed the challenge to order of discharge by order dated 17.07.2009.

7. Learned counsel would further submit that before approaching the Tribunal, he had approached this Court in W.P.No.12394/2000 and this Court by interim order dated 04.04.2000 stayed the order of discharge and subsequently by order dated 22.08.2000 disposed of the writ petition continuing the interim order directing the petitioner to approach the Tribunal. Accordingly, it is submitted that the petitioner approached the Tribunal and

interim order of stay of discharge was operating in favour of the petitioner when Application No.6022/2001 was pending before the Tribunal. However, he submits that the petitioner was continued in service and thereafter one more discharge order dated 19.09.2024 was passed under Rule 6(1) of Probation Rules making the same allegation that, though the petitioner was not eligible for appointment as Police Constable, he got appointment order by illegal means. The said order of discharge was the subject matter of Application No.5299/2024 and learned counsel would submit that the Tribunal failed to consider the contentions raised by the petitioner including the contention that the order of discharge attaches stigma and that it is not an order of discharge *simpliciter*.

8. Further, learned counsel would submit that the Tribunal without examining the merit of the order of discharge, solely on the ground that the petitioner has not challenged the earlier order of Tribunal dismissing the petitioner's challenge to the previous order of discharge, dismissed the Application. Thus, he would submit that as

the order of discharge is not an order of discharge *simpliciter* and as the same attaches stigma, the same requires interference at the hands of this Court.

9. *Per contra*, learned Additional Government Advocate Sri.K.R.Rajendra would support the order passed by the Tribunal and would submit that a person who has obtained employment by illegal means would not be entitled to continue in the employment. Further, he would submit that his application challenging the order of discharge dated 28.03.2000 was dismissed by the Tribunal by order dated 17.07.2009 and even thereafter the petitioner continued in service illegally. The challenge to the Tribunal order dated 17.07.2009 by filing the writ petition in the year 2026 is liable to be dismissed solely on the ground of delay and laches.

10. Further, learned Additional Government Advocate would submit that as on the date of the Tribunal considering the subsequent order of discharge, the earlier order of the Tribunal dismissing his challenge to earlier

order of discharge was operating against the petitioner and the Tribunal is justified in observing that the petitioner has not challenged the earlier order of the Tribunal dismissing his challenge to the order of discharge. Learned Additional Government Advocate would submit that the selection and appointment of the petitioner itself is by illegal means and subsequently by illegal means, even after dismissal of the application challenging the order of discharge, petitioner is continuing in service. Therefore, he would pray for dismissal of the writ petition.

11. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition papers, we are not inclined to interfere with the impugned orders passed by the Tribunal as well as impugned orders of discharge, for the following reasons:

Under impugned order dated 13.09.1996 (Annexure-A1), petitioner was appointed as Police Constable on probation for a period of 2 ½ years. Admittedly, no order confirming the service of the petitioner or declaring the probation period of the petitioner as satisfactory was

passed. Since the petitioner continued as probationer, taking note of the fact that the petitioner got appointment by illegal means, the third respondent by order dated 28.02.2000 discharged the petitioner as not suitable to hold the post of Police Constable, in exercise of power under Rule 6 of the Probation Rules. The said order of discharge was the subject matter of Application before the Tribunal in Application No.6022/2001 and the Tribunal by order dated 17.07.2009 dismissed the Application holding that the Tribunal would not find anything wrong in the course taken by the respondents. The observation of the Tribunal at paragraphs 7 and 8 of the order reads as follows:

"7. We have secured the concerned Selection Register and observe that as stated in the reply statement, the Applicant was recorded therein as "not selected". The Applicant has no material to counter the reply statement that he had not been selected and had only managed to get an appointment order because the case worker was in league with him. We hold therefore that the contention that the Applicant had managed to

secure the appointment by illegal means is well established.

8. *The question of giving protection to the Applicant against discharge does not arise at all as he is no one in the eyes of law to claim the right to seek the remedy before this Tribunal because he was never selected or appointed legally. The Applicant cannot at all claim the status of a Government employee. There is no deemed confirmation. He is at best an interloper whose existence within the Police Department lacks legitimacy. He is not entitled to claim that his services should be continued only because he has put in some years of service. The respondents have taken recourse of the Karnataka Civil Services (Probation) Rules, 1977 to ease him out of Government service, though in fact he is not a genuine probationer having secured the appointment through fraudulent means. We do not find anything wrong in the course taken by the respondents."*

The Tribunal on securing the selection register has come to a definite conclusion that the petitioner has managed to secure the employment by illegal means. Further, the Tribunal observed that the question of giving protection to the petitioner against discharge does not arise at all as he

is no one in the eyes of law to claim the right to seek remedy before the Tribunal, because he was never selected or appointed legally.

12. The above order of the Tribunal had become final as the petitioner had not challenged the same till filing of the above writ petition for more than fifteen years. Before filing the Application before the Tribunal challenging the order of discharge dated 28.03.2000, the petitioner had approached this Court in W.P.No.12394/2000 and by an interim order dated 04.04.2000, this Court had stayed the order of discharge. However, the said writ petition was disposed of by order dated 22.08.2000 with a direction to the petitioner to approach the Tribunal continuing the interim order. However, on dismissal of the application by the Tribunal, the interim order merged with final order and the respondents ought to have relieved the petitioner. It appears that the petitioner, again by illegal means, in connivance with the officials of the respondents, continued in service. Thereafter, the third respondent had to pass

one more order of discharge dated 19.09.2024 in exercise of power under Rule 6 of the Probation Rules (Annexure-A6). The said order of discharge was the subject matter of Application No.5299/2024. The Tribunal under impugned order dated 13.03.2025 rightly dismissed the Application holding that earlier order of discharge and the dismissal of the challenge to said discharge order dated 17.07.2009 in Application No.6022/2001 has become final.

13. One of the prayers in the present writ petition is to set aside the order dated 17.07.2009 in Application No.6022/2001 passed by the Tribunal. The petitioner is before this Court questioning the said order after more than fifteen years, that too, continuing in service for more than fifteen years by illegal means, even after dismissal of his challenge to the order of discharge.

14. The petitioner being a person who is already discharged and whose challenge to the said discharge order has become final by dismissal of the Application filed before the Tribunal, there was no need or necessity for the

third respondent to pass one more fresh order of discharge dated 19.09.2024. The authorities could have simply relieved the petitioner of his duties based on the order of discharge dated 28.03.2000 which is confirmed by the order of the Tribunal dated 17.07.2009 in Application No.6022/2001.

15. Continuation of petitioner even after the order of discharge dated 28.03.2000 and his continuation even after dismissal of his challenge before the Tribunal by order dated 17.07.2009 in Application No.6022/2001 is illegal. A discharged Police Constable could not have been continued and continuation could not have been possible without connivance with some of the officials of the third respondent. Continuing a discharged Police Constable and paying salary is unheard of. The third respondent appears to have passed the subsequent order of discharge without applying his mind to the records, even after bringing to his notice the earlier order of the discharge as well as earlier order of the Tribunal dismissing his challenge to the order of discharge.

16. Continuing a discharged Police Constable for over fifteen years and paying salary needs a thorough enquiry. The first respondent shall conduct an enquiry and fix responsibility with regard to continuing a discharged Police Constable in service and for paying salary. Proper disciplinary action shall be taken against all the concerned officials and action taken report shall be filed before this Court within six months from the date of uploading of copy of this order on the website of the High Court.

17. There is no merit in the writ petition and accordingly writ petition stands rejected.

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

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

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CT:bms