



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 17487 OF 2022 (S-R)

BETWEEN:

1. SRI JAGANNATH S
S/O LATE SHAMANNA
AGED ABOUT 63 YEARS
RETIRED ASSISTANT TEACHER
SRI ABHINAVABHARATHI VIDYA KENDRA
HIGH SCHOOL KANNADA MEDIUM , MANDYA
R/AT NO.2529, 1ST CROSS
GANDHINAGAR
MANDYA-571401

...PETITIONER

(BY SRI. PADMANABHA R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF PRIMARY AND SECONDARY
EDUCATION M S BUILDING
BENGALURU-560001.
2. THE DIRECTOR FOR PUBLIC INSTRUCTIONS
DEPARTMENT OF SECONDARY EDUCATION

Digitally
signed by
SHILPABAI S
Location
HIGH
COURT OF
KARNATAKA





NRUPATHUNGA ROAD
BENGALURU-560001.

3. THE DEPUTY DIRECTOR FOR PUBLIC INSTRUCTION
(ADMINISTRATIVE)
MNADYA DISTRICT-571401.
4. ACCOUNTANT GENERAL (A AND E)
IN KARNATAKA
PARK HOUSE PALACE ROAD
BANGALORE-560001

...RESPONDENTS

(BY SRI. RAMESH NAIK G, AGA FOR RESPONDENTS)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER BEARING NO.ED/02/LBP/2022 DTD: 28.02.2022 PASSED IN APPEAL NO.60/2021 OF THE R-1 VIDE ANNEXURE-M AND QUASH THE IMPUGNED COMMUNICATION LETTER BEARING DTD. 02.01.2019 OF THE R-2 ADDRESSED TO R-3 VIDE ANNEXURE-G AND ETC.

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

ORAL ORDER

The petitioners have filed this writ petition seeking the following reliefs:

- (1) *Issue a writ in the nature of certiorari to quash the impugned order bearing No.ED/02/LBP/2022 dated 28.02.2022 passed in Appeal No.60/2021 of the 1st respondent vide Annexure-M and quash the impugned communication letter bearing No. ಸಿ8(2)ಶಾ.ಶಿ.ಅ.ಮೂ.ಶಿ.ಬಡ್ತಿ.40/2018-19 dated 02.01.2019 of the 2nd respondent addressed to 3rd respondent vide Annexure-G;*
- (2) *And consequently direct the respondents to approve the order of promotion promoting the petitioner as Head Master with Aid w.e.f.01.08.2017 as has been done in case of two other teachers vide Annexure-C and H and grant all the consequential benefits including pensionary benefits.*
- (3) *Direct the respondents to re-fix the Pensionary benefits and monthly pension by treating that the promotion of the petitioner as Head Master has been approved with aid w.e.f. 01.08.2017 and grant all the consequential benefits.*
- (4) *Issue such other orders, directions as deemed fit in the circumstances of the case and allow this petition with exemplary costs, in the interest of justice.*



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

It is the case of the petitioner that the petitioner was appointed as Assistant Teacher by the Abinava Bharathi Vidya Samsthe, Mandya and the appointment of the petitioner was duly approved with aid. The petitioner's management considering the eligibility and seniority promoted the petitioner as Head Master with effect from 01.08.2017. The petitioner's management by means of memo made the petitioner as permanent Head Master. Pursuant to the promotion granted as Head Master to the petitioner, the management by means of communication letter dated 13.10.2017 requested the respondents to approve the appointment of the petitioner as Head Master with aid with effect from 01.08.2017 and the same has not been considered. Instead of considering the proposal sent by the management in accordance with the law, respondent No.3 and the BEO, Mandya, South by means of communication letter returned the proposal only on the



ground that the matter regarding promotion is pending before the Hon'ble Apex Court in the case of B.K.Pavithra and others and consideration of promotion is withheld. Meanwhile, the petitioner retired from service on attaining the age of supererogation on 31.12.2018. The petitioner made a request to approve his order of promotion as Head Master with aid and to grant all consequential benefits. The respondents have passed an order rejecting the claim of the petitioner vide order dated 02.01.2019 and 21.12.2017. The petitioner, aggrieved by the order preferred a writ petition in W.P.No.14492/2021. This Court, vide order dated 23.08.2021, dismissed the appeal reserving liberty to file an appeal before the appropriate authority. Pursuant to the liberty granted by this Court, the petitioner filed an appeal before respondent No.1 in Appeal No60/2021. Respondent No.1 without considering the grounds raised by the petitioner in the appeal memo passed the impugned order vide Annexure-M dated 28.02.2002. The petitioner, aggrieved by the impugned



order vide order vide Annexure-M, has filed this writ petition.

3. Heard the arguments of the learned counsel for the petitioner and also the learned Government Advocate.

4. Learned counsel for the petitioner submits that the petitioner has raised several grounds in the appeal memo and also produced the copy of the recommendation made by the management for approval of post of Head Master with the aid. He submits that the respondent did not consider the documents produced by the petitioner. Respondent No.3 vide communication dated 02.01.2019 issued by respondent No.2 addressed to respondent No.3 and communication letter dated 21.12.2017 has rejected the representation of the petitioner. The petitioner, aggrieved by the order passed by respondent No.2 and 3, filed an appeal No.60/2021 before respondent No.1. He submits that respondent No.1 without application of the entire material placed on record has dismissed the appeal.



He submits that impugned order passed by the Appellate Authority is not a speaking order and there is no application of mind. Hence, on these grounds, he prays to allow the appeal.

5. Learned Government Advocate has supported the impugned order and he submits that appointment as the Head Master was not approved by the respondents. Hence, the petitioner is not entitled for the benefit claimed in the representation. He submits that the respondents have rightly rejected the proposal sent by the management on the ground that the petitioner has already retired from service. Hence, on these grounds, he prays to dismiss the writ petition.

6. Perused the records and considered the submissions of the learned counsel for the parties.

7. It is an undisputed fact that the petitioner is working in Abinava Bharathi Vidya Samsthe, Mandya and



the management promoted him as Head Master on 03.07.2017. The management has forwarded the recommendation for approval as the Head Master. The said proposal was rejected by the respondents on the ground that the petitioner has already retired from service. The petitioner, aggrieved by the impugned endorsement dated 02.01.2019, addressed by respondent No.2 to respondent No.3 and communication letter dated 21.12.2017, filed the writ petition in W.P.No.14492/2021. This Court dismissed the writ petition vide order dated 23.08.2021 on the ground that the petitioner has got an efficacious remedy. The petitioner, without exhausting efficacious remedy, filed this writ petition and liberty was reserved to the petitioner to file an appeal before the appropriate authority. Pursuant to the liberty granted by this Court, the petitioner filed an appeal before respondent No.1. Respondent No.1 passed the impugned order. From the perusal of the impugned order, respondent No.1 has not applied its mind while passing an order. The said



impugned order passed by respondent No.1 is without application of mind. The petitioner has raised several grounds in the appeal memo and dismissed the appeal on the ground that the petitioner was retired from service. Respondent No.1 did not consider the proposal sent by the management for approval of the post of appointment of the petitioner as Head Master. As on the date of submitting the proposal, the petitioner was in service. Without considering the said aspect, has passed the impugned order. The impugned order passed by respondent No.1 is cryptic order and the same is liable to be quashed.

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

ORDER

- i. The Writ Petition is ***allowed.***



- ii. The impugned order dated 02.01.2019 passed by respondent No.2 vide Annexure-M is hereby quashed.
- iii. Respondent No.1 is directed to reconsider the appeal and pass an appropriate order in accordance with the law after assigning the detail reason within a period of three months from the date of copy of this order after giving personal hearing.
- iv. Pending application(s), if any, shall stand disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE