



CNR: KAHC010472032023

NC: 2026:KHC:49702-DB
WA No. 1078 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT APPEAL NO.1078 OF 2023 (S-RES)

BETWEEN:

1. THE KARNATAKA HANDLOOM
DEVELOPMENT CORPORATION LTD,
JAYAMAHAL, BENGALURU-560 046,
(NOW THE HEAD OFFICE IS SHIFTED TO
PRIYADARSHINI NEKAR BHAVAN,
VIDYANAGAR, HUBBALLI-580 031),
A COMPANY INCORPORATED
UNDER COMPANIES ACT,
DULY REPRESENTED BY ITS
MANAGING DIRECTOR.
2. THE MANAGING DIRECTOR,
THE KARNATAKA HANDLOOM
DEVELOPMENT CORPORATION,
LTD., JAYAMAHAL, BENGALURU-560 046,
(NOW THE HEAD OFFICE IS SHIFTED TO
PRIYADARSHINI NEKAR BHAVAN,
VIDYANAGAR, HUBBALLI-580 031).

...APPELLANTS

(BY SRI. MANU D. GOWDA, ADVOCATE)

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by PAVITHRA B
Location: HIGH
COURT OF
KARNATAKA



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AND:

SRI. B.S. DWARAKANATH,
S/O LATE SHANKARANARAYANA,
AGED ABOUT 71 YEARS,
R/AT NO.237/A, RAMASKANDA,
4TH MAIN, GANGANAGAR,
BANGALORE-560 042.

...RESPONDENT

(BY SRI. VIKRAM HUILGOL, SENIOR COUNSEL FOR
SRI. AKSHAY RAMACHANDRA HUDDAR, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO CALL FOR THE RECORDS IN W.P
No.3459/2021 (S-RES) AND AFTER PERUSING THE IMPUGNED
ORDER DATED 07.06.2023 PASSED BY THE LEARNED SINGLE
JUDGE SET ASIDE AND DISMISS THE WP IN THE INTEREST OF
JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This writ appeal is filed challenging the order passed
by the learned Single Judge in W.P.No.3459/2021. The
writ petition had been filed by the respondent herein
challenging the order dated 08.10.2013 vide Annexure-N
dismissing the appeal filed by the petitioner challenging



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the order of punishment of compulsory retirement and seeking grant of interest at 12% per annum on the arrears of salary and other benefits, which are due to them.

2. The brief facts of the case as disclosed from the memorandum of appeal are as under:

The petitioner while working as a Chief Manager (Quality Control) in the first respondent Corporation Ltd., Hubli, disciplinary action was initiated against him in respect of certain misconducts vide statement of imputation dated 23.07.1998. In pursuance of a departmental enquiry, he was awarded penalty of Compulsory Retirement on 16.2.1999. Against the said order, the petitioner filed an appeal before the Board of the first respondent Corporation. An order dated 10.01.2000 was passed confirming the order passed by the Disciplinary Authority. Thereafter, the petitioner filed Writ Petition No.43546/1999 challenging the said order. However, the learned Single Judge by judgment dated



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10.01.2006 dismissed the writ petition. Aggrieved by the said order, the petitioner filed Writ Appeal No.314/2006 before the Division Bench of this Court, which came to be allowed on the ground that the Managing Director who is the Disciplinary Authority and who imposed the penalty participated in the decision of the Board. After such remand, the impugned order was passed affirming the penalty of compulsory retirement. The petitioner being aggrieved by the said order preferred Writ Petition No.17256/2008 before this Court. This Court by its order dated 21st November, 2011 was pleased to allow the writ petition and restored the appeal with a specific direction that the petitioner should be heard by the Board.

3. Thereafter, it is contended that an order was passed by the Board, which was not communicated to the writ petitioner. This order was again challenged in this subject writ petition.



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4. Learned Single Judge considering the contentions found that there has been an inordinate delay in serving the order of rejection of the appeal at Annexure-N. It was found specifically that the respondent-Corporation had considered the appeal and rejected the same on 08.10.2013 and the delay in furnishing the order passed in the appeal itself would establish the fact that the respondents have not applied their mind in a manner known to law and that further action has not been taken pursuant to the completion of enquiry without considering the finding recorded in W.P.No.44213/1999. The endorsement dated 08.10.2013 at Annexure-N was set aside and the writ petition was allowed.

5. Learned counsel for the appellants submits that there was absolutely no delay in either the conduct of the enquiry or in the consideration of the appeal preferred by the respondent. It is stated that after due conduct of the enquiry on the basis of an article of charges issued on 23.07.1998, an order of compulsory retirement had been



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passed on 16.02.1999. It is submitted that the appeal preferred by the respondent was initially dismissed on 25.02.1999. Though the penalty and dismissal of the appeal was challenged in W.P.No.44213/1999, writ petition was initially dismissed. In the appeal, the dismissal of the writ petition was set aside and the matter was remanded for a fresh consideration on the appeal. Thereafter, an order was again passed on 24.09.2007 on the appeal. However, this order was again set aside on 21.11.2011 in W.P.No.17256/2008 and the matter was again remanded for a fresh consideration of the appeal. It is submitted that the appeal was reconsidered and order dated 08.10.2013 vide Annexure-N has been passed. However, it was contended by the writ petitioner that, though Annexure-N is dated 08.10.2013, the same was served on the respondent only on 09.07.2020.

6. Learned counsel for the appellants submits that immediately after passing the order at Annexure-N, the same was sent by post to the respondent. It is submitted



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that the Communication was returned by the Postal Department with a remark that the respondent was out of station. It is submitted that the letter was again dispatched on 26.11.2013 by the Registered Post Acknowledgment Due, but the same was returned with the remark "unclaimed". It is stated that these details are available at Annexure-M. It is stated that it is only thereafter further communication had been issued again on 09.07.2020, which was ultimately served on the respondent.

7. Learned counsel for the appellants submits that there has been no delay in either conduct of the disciplinary proceedings or consideration of the appeal by the appellants. It is submitted that immediately on passing the order at Annexure-N, the same had been sent to the respondent through the Registered Post Acknowledgement Due on 24.10.2013 and 26.11.2013. But the same was returned as "*out of station*" and "*unclaimed*" on two occasions.



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8. In the above view of the matter, it is contended that there is no delay, which would lead to setting aside of the order of compulsory retirement in the instant case.

9. Learned Senior counsel appearing for the respondent would, on the other hand, contend that though the order in the appeal was passed on 08.10.2013, it is admittedly served only on 09.07.2020 and that there is a complete lack of seriousness or urgency on the part of the appellants in the matter.

10. Having considered the contentions advanced, we notice that there were ongoing litigations between the parties throughout the period from 1999 till 2013. It is clear that there has been no delay in the conduct of the enquiry, since the charge memo was issued in 1998 and the order of compulsory retirement was passed on 16.02.1999.

11. In the facts and circumstances of the instant case, we are of the opinion that the finding given by the



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learned Single Judge that there was delay in the conduct of enquiry and communication of the proceedings cannot be accepted. With regard to the service of the order in appeal is concerned also, we notice that it was on record that the copy of the impugned decision in appeal had been sent by Registered Post Acknowledgment Due to the last known address of the respondent immediately after it has been rendered. It had been returned as "*out of station*". The appellant again sent the same communication by the Registered Post Acknowledgment Due on 26.11.2013, which was returned as "*unclaimed*".

12. In the above circumstances, we are of the opinion that the contention that there is an inordinate delay on the part of the appellants cannot be accepted. Therefore, the appeal has to be allowed.

13. In the result:

(i) The appeal is ***allowed***.



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- (ii) The judgment dated 07.06.2023 passed in W.P.No.3459/2021 by the learned Single Judge is set aside.
- (iii) The writ petition shall stand dismissed.
- (iv) In view of the fact that the respondent has been compulsorily retired from service, the service benefits, if any, that he is entitled to, will be released to him, if not already released.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

PB
List No.: 1 Sl No.: 3