



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 20461 OF 2023 (S-DIS)

BETWEEN:

DR. SAVITHA
W/O K S NAGARAJA
AGED ABOUT 61 YEARS
R/O NO. 126, SURABHI
6TH MAIN, 13TH CROSS
N.G.E.F LAYOUT, NRUPATUNGA NAGAR
NAGARABHAVI, BANGALORE - 560072

...PETITIONER

(BY SRI. KASHINATH J D., ADVOCATE)

AND:

1. THE COMMISSIONER
BRUHATH BANGALORE MAHANAGARA PALIKE
N R SQUARE, BANGALORE - 560002.
2. THE SPECIAL COMMISSIONER (ADMINISTRATION)
BRUHATH BANGALORE MAHANAGARA PALIKE
N R SQUARE, BANGALORE - 560002.
3. THE DEPUTY COMMISSIONER (ADMINISTRATION)
BRUHATH BANGALORE MAHANAGARA PALIKE
N R SQUARE, BANGALORE - 560002.
4. THE MEDICAL HEALTH OFFICER
VIJAYANAGARA ZONE
BRUHATH BANGALORE MAHANAGARA PALIKE
BANGALORE - 560040

...RESPONDENTS

(BY SRI. SUBRAMANI M A., ADVOCATE FOR R1 TO R4)

Digitally signed by
MALATHI
CHALUVA IYENGAR
Location: HIGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER BEARING NO. B12(4A)/PR/06/2015-16 E-OFFICE NO. 24620/2023-24 DATED: 06/09/2023 AS PER ANNEXURE-W 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 H.T. NARENDRA PRASAD

ORAL ORDER

1. In this petition, the petitioner sought for the following reliefs:

i. Issue writ in the nature of certiorari to quash the impugned order bearing No. B12[4A]/PR/06/2015-16 E-Office No:24620/2023-24 dated: 06.09.2023 as per Annexure-W as illegal.

ii. Consequently, issue writ in the nature of mandamus or any other order or direction to respondents to consider afresh the representations of the petitioner dated: 01-08-2022 and 05-09-2022 as per Annexure-T & T1 holding that, the period starts from 2010 to 2014 as spent on duty, accordingly direct them to release the salary, annual increments and other service benefits to petitioner for the period out of employment to meet the interest of justice.



iii. Pass any appropriate order or direction deems fit to the facts and circumstances of the case and to meet the interest of justice.

2. The case of the petitioner is that she was appointed as a Lady Medical Officer under the Government of India Scheme, namely India Population Plan-VIII, in the year 1997. While she was working under the Bruhat Bengaluru Mahanagara Palike (BBMP), a departmental enquiry was initiated against her on 12.04.2010 alleging unauthorized absence from duty. Pursuant thereto, a charge memo was issued, an Enquiry Officer was appointed, and the Enquiry Officer submitted a report holding that the charge against the petitioner was not proved. The Disciplinary Authority accepted the findings of the Enquiry Officer and exonerated the petitioner from the enquiry proceedings vide order dated 21.07.2022 at Annexure-S. Thereafter, the petitioner submitted representations seeking payment of salary and other service benefits for the period from 11.11.2010 to 06.07.2014. As the said representations



were not considered, the petitioner approached this Court by filing W.P.No.9091/2023. This Court, by order dated 20.04.2023, directed the respondents to consider the representations dated 01.08.2022 and 05.09.2022 within an outer limit of three months. Subsequently, respondent No.3 passed the impugned order dated 06.09.2023 (Annexure-W), purportedly exercising powers under Rule 106-A of the Karnataka Civil Services Rules (KCSR), holding that the petitioner is not entitled to salary for the period from 11.11.2010 to 06.07.2014 and treating the said period as unauthorized absence. Being aggrieved by the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

4. It is not in dispute that a departmental enquiry was initiated against the petitioner on the allegation of unauthorized absence from duty. It is also not in dispute that the Enquiry Officer, after conducting a full-fledged



enquiry, submitted a report holding that the charge was not proved, and that the Disciplinary Authority accepted the said report and exonerated the petitioner from all charges. Once the petitioner was exonerated from the disciplinary proceedings, the respondents had no authority to deny salary and service benefits for the period from 11.11.2010 to 06.07.2014.

5. At this stage, it is relevant to refer to Rule 106-A of the Karnataka Civil Services Rules, which empowers the Disciplinary Authority to treat periods of unauthorized absence as *dies non*. Rule 106-A of the Rules is extracted hereunder:

"Rule 106-A. *A Government servant who absents himself from duty without leave shall not be entitled to any salary for the days of absence, and the period of such absence shall be debited to his leave account as though it were half pay leave to the extent such leave is due, and as extraordinary leave to the extent the period of half pay leave falls short of the period of such absence unless leave is granted by a Competent Authority for the days of such absence. Absence from duty of a Government servant without leave granted by a Competent*



Authority, will also render such Government servant liable to disciplinary action for misconduct except where the Government servant establishes to the satisfaction of the authority competent to sanction leave that he was unable to join duty for reasons beyond his control.

Provided that the Disciplinary Authority shall have the discretion to treat the period of unauthorised absence as dies non or as admissible leave keeping in view the facts and circumstances of the case.

6. The proviso to Rule 106-A provides discretionary power to the Disciplinary Authority to treat unauthorized absence as *dies non*. However, in the present case, the departmental enquiry was conducted, the Enquiry Officer categorically held that the charge was not proved, and the petitioner was exonerated from the enquiry proceedings. In such circumstances, the respondents could not have invoked Rule 106-A of the KCSR. Therefore, the impugned order at Annexure-W is passed without application of mind and without jurisdiction, and the same cannot be sustained in law.



7. Accordingly, the following order is passed:

ORDER

- a) Writ petition is **allowed**.
- b) The impugned order dated 06.09.2023 passed by respondent No.3 at Annexure-W, is set aside.
- c) The respondents are directed to consider the representations of the petitioner at Annexure-T dated 01.08.2022, Annexure-T1 dated 05.09.2022 and Annexure-V2 dated 18.05.2023, in accordance with law and as expeditiously as possible not later than three months from date of receipt of copy of this order.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

DM
List No.: 1 Sl No.: 39