



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 25178 OF 2023 (S-RES)

BETWEEN:

SMT. SHEELA S
W/O RAJENDRA PRASAD M
AGED ABOUT 40 YEARS
SHIVARAMA NILAYA
5TH CROSS, 2ND MAIN
OPP.SHARADA VIDYAPEETA SCHOOL
BYATARAYANAPURA
MYSORE ROAD
BENGALURU-560026

...PETITIONER

(BY SRI. SHAILENDRA M R., ADVOCATE)

AND:

THE BANGALORE MEDICAL COLLEGE AND RESEARCH
INSTITUTE
K R ROAD, FORT

Digitally
signed by
KIRAN
KUMAR
Location:
HIGH COURT
OF
KARNATAKA



BENGALURU-560002

REPRESENTED BY ITS DIRECTOR AND DEAN

...RESPONDENT

(BY SRI. PANINI ALANGAR, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO

a) QUASH BY ISSUE OF WRIT OF CERTIORARI OR ANY OTHER WRIT OR ORDER, AS THE CASE MAY BE, THE ENDORSEMENT BEARING NO. BEM YU SOM / SOM / COURT/17160/2023-24 DATED 10/08/2023 OF THE RESPONDENT AT ANNEXURE-K.

b) ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE ORDER OR DIRECTION DIRECTING THE RESPONDENTS TO CONSIDER THE CASE OF THE PETITIONER FOR APPOINTMENT AS JUNIOR LAB TECHNICIAN AND INCLUDE THE NAME OF THE PETITIONER IN THE FINAL SELECTION LIST TO JUNIOR LAB TECHNICIAN AND APPOINT THE PETITIONER TO THE POST OF JUNIOR LAB TECHNICIAN TO THE NOTIFIED VACANCY OF G.M. (WOMEN) IN THE RECRUITMENT NOTIFICATION DATED 28/12/2012 AT ANNEXURE-A WITH ALL CONSEQUENTIAL BENEFITS, INCLUDING THE MONETARY BENEFITS. GRANT SUCH OTHER SUITABLE RELIEFS AS THIS HON'BLE COURT DEE S FIT, IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

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 petitioner has filed this writ petition seeking the following reliefs:

- (1) *Quash by issue of writ of certiorari or any other writ or order, as the case may be, the Endorsement bearing No.Bem Yu Som Som/Court/17160/2023-24 dated 10.08.2023 of the respondent at Annexure-K;*
- (2) *Issue a writ in the nature of mandamus or any other appropriate order or direction directing the respondents to consider the case of the petitioner for appointment as Junior Lab Technician and include the name of the petitioner in the Final Selection List to Junior Lab Technician and appoint the petitioner to the post of Junior Lab Technician to the notified vacancy of G.M.(Women) in the Recruitment Notification dated 28.12.2012 at Annexure-A with all consequential benefits, including the monetary benefits.*
- (3) *Grant such other suitable reliefs as this Hon'ble Court deems fit, in the facts and circumstances of case.*

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



The respondent-Institute has issued a notification/advertisement inviting an application for the several post. Pursuant to the notification the petitioner applied for the post of the Junior Lab technician vide notification dated 28.12.2012. On 24.03.2016, a provisional list/merit list was published. On 25.06.2016, an appointment orders were issued to 9 persons, though 10 posts were advertised. One of the candidate approached this Court in W.P.No.36710/2016. This Court, vide order dated 17.12.2021, allowed the writ petition and directed respondent No.1 to consider the case of the petitioner for appointment as a Medical Record Technician, if the petitioner is otherwise eligible and include the name of the petitioner in the final list of the Medical Record Technician and appoint the petitioner to the post of Medical Record Technician to the notified vacancy of (GM) under the recruitment notification dated 28.12.2012 with all consequential benefits except the arrears of salary. The said order was challenged by the respondent in



W.A.No.132/2022. The said writ appeal came to be dismissed vide judgment dated 07.03.2022. On the basis of the order passed in W.P.No.36710/2016, the petitioner therein was appointed under the impugned notification. Hence, this writ petition.

3. Despite granting sufficient opportunity, the respondent has not filed the statement of objections.

4. Heard the arguments of learned counsel for the petitioner and also learned counsel for the respondent.

5. Learned counsel for the petitioner submits that the similarly placed petitioner under the same notification has directed the respondent to consider the case of the petitioner therein for the post of the Medical Record Technician. He submits that the petitioner is entitled for



similar relief on the ground of parity. Hence, on these grounds, he prays to allow the writ petition.

6. *Per contra*, learned counsel for the respondent submits that the final selection list was issued in the year 25.06.2016 and the writ petition is filed in 2023. There is a delay of more than 8 years in filing the writ petition. Hence, on the ground of delay and laches, the writ petition is liable to be dismissed and he also submits that in a similar circumstances, the Division Bench of this Court in W.P.No.24372/2022 and connected matter disposed of the writ petition vide judgment dated 22.08.2024. Hence, on these grounds, he prays to dismiss the writ petition.

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

8. It is an undisputed fact that the respondent has issued a notification/advertisement calling for an



application for several posts in the respondent-Institution. Pursuant to the said notification, the petitioner has applied for the post of Junior Lab technician. The petitioner participated in the recruitment process and the petitioner was unsuccessful. The respondent has published the final selection list dated 25.06.2026. One of the similarly placed petitioner approached this Court in W.P.No.36710/2016, wherein the petitioner therein has applied for the post of Medical Record Technician. This Court, vide order dated 17.12.2021, allowed the writ petition and directed the respondent-Institution to consider the case of the petitioner, if the petitioner is otherwise eligible and to include the name of the petitioner in the final selection list of the Medical Record Technician and appoint the petitioner to the post of Medical Record Technician to be notified vacancy of GM (women) under the recruitment notification dated 28.12.2012 with all consequential benefits except the arrears of salary. The Institution, aggrieved by the order passed in the aforesaid



writ petition, preferred a writ appeal in W.A.No.132/2022. The said writ appeal came to be dismissed vide order dated 07.03.2022. After the disposal of the said writ appeal, the petitioner filed this writ petition on 03.11.2023 claiming the same relief based on the order passed in W.P.No.36710/2016. The similar issue arises before the Division Bench in W.A.No.24372/2022. The Division Bench, vide judgment dated 22.08.2024, recorded its finding, which reads as follows:

"15. It is the submission of the learned counsel for the petitioner-KPSC that the private respondent herein is not a party in Writ Petition No.50737 of 2013 and connected petitions or has he approached the Tribunal challenging the selection Notification. He is just a fence-sitter who was silently watching the proceedings and now wants to come under the umbrella of the benefit extended to the Petitioners in Writ Petition No.50737 of 2013 and connected petitions, which is not permissible. He submits that it is clear from the order passed in Writ No.50737 of 2013 and connected petitions is to extend the benefit to the petitioners therein for considering their candidature for selection in open competition category and further to accommodate them in the vacant sanctioned posts. It was further made clear that if no sanctioned posts are available, then to create supernumerary posts to accommodate them. The private respondent herein is not a party to the Writ Petition No.50737 of 2013 and connected petitions. It is well-settled that fence-sitters cannot be allowed to



raise the dispute or challenge the validity of the order after its conclusion. Those persons who approach the Court on the ground that their counterparts who had approached the Court succeeded in their efforts, then such employees cannot claim that the benefit and they would be treated as fence-sitters."

9. Admittedly, in the instant case, the petitioner is just fence-sitters, who was silently watching the proceedings in W.P.No.36170/2016 and now wants to come under the umbrella of the benefit extended to the petitioner in W.P.No.36710/2016. It is also observed that those persons, who approached the Court on the ground that their counterparts who had approached the Court and succeeded in their efforts, then such employee cannot claim that the benefit and they would be treated as a fence-sitters.

10. Admittedly, in the instant case, the petitioner has not chosen to challenge the final selection list for more than 7 years and he kept quiet. The petitioner is not entitled for benefit of an order passed in



W.P.No.36710/2016. Considering the judgment rendered by the Division Bench in the case of **Ms. MANJUSHREE.K**, in W.P.No.24372/2022, I do not find any grounds to entertain the writ petition.

11. Accordingly, I proceed to pass the following:

ORDER

- i. The Writ Petition is ***dismissed***.
- ii. Pending application/s, if any, shall stand disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE

SSB