



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.26825 OF 2023 (S-KSAT)

BETWEEN:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
HOME DEPARTMENT,
VIDHANA SOUDHA,
BENGALURU – 560 001.
2. THE DIRECTOR GENERAL &
INSPECTOR GENERAL OF POLICE,
NRUPATHUNGA ROAD,
BENGALURU – 560 001.
3. THE SUPERINTENDENT OF POLICE
MYSORE DISTRICT,
HYDER ALI ROAD,
JALAPURI (OPP. TO CHAMUNDI)
VIHAR STADIUM,
MYSORE - 570 019.
4. THE ACCOUNTANT GENERAL IN KARNATAKA
(A & E), PARK HOUSE ROAD,
BENGALURU – 560 001.

...PETITIONERS

(BY SRI.HARISHA A.S., AGA)

Digitally signed
by
VIJAYAKSHMI
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Location: HIGH
COURT OF
KARNATAKA



AND:

SMT. THUMBALAMMA
W/O LATE SRI. GURURAJ,
AGED ABOUT 66 YEARS,
R/AT NO.104, 11TH CROSS,
GANDHINAGARA,
MYSURU - 570 007.

LEGAL HEIR AND WIFE OF:

SRI. GURURAJA,
WAS WORKING AS A FULL TIME SWEEPER,
OFFICE OF THE SUPERINTENDENT OF POLICE
MYSORE DISTRICT,
MYSORE - 570 019

(DIED WHILE IN SERVICE ON 28.11.2005)

...RESPONDENT

(BY SRI. R. NAVEEN KUMAR FOR
SRI.RAJASHEKAR P.,ADVOCATES (VC))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS PERTAINING TO THE ORDER DATED 19.04.2023 IN APPLICATION No.4718 OF 2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT BENGALURU (ANNEXURE-B) AND ISSUE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER, OR DIRECTION FOR QUASHING/SETTING ASIDE THE ORDER DATED 19.04.2023 IN APPLICATION No. 4718 OF 2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, AT BENGALURU (ANNEXURE-B) 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 S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL ORDER

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

The authorities-Home Department are before this Court questioning the Order dated 19.04.2023 in Application No.4718/2022, wherein the Tribunal taking note of the orders passed in respect of similarly situated Sweepers directed the petitioners herein to continue the service of the respondent's husband as a pensionable post from the date of his appointment till the date of his death to enable legal heirs to get pensionary benefits.

2. Heard learned Additional Government Advocate Sri.A.S.Harisha for petitioner/State as well as learned counsel Sri.R.Naveen Kumar for respondent.

3. Perused the entire petition papers.



4. Learned Additional Government Advocate would contend that the husband of the respondent was appointed as Sweeper on contingency payment and the duty hours of the respondent-husband was only between 7.00 a.m to 10.00 a.m, and not for the whole day. Therefore, learned Additional Government Advocate would submit that the Tribunal could not have directed continuation of husband of the respondent in a pensionable post so as to draw pension by the respondent.

5. Learned Additional Government Advocate further submitted that when respondent/husband was not working in a sanctioned post and when he was working part time, he was not entitled for any regularization from the State. Thus, he would pray for allowing the petition.

6. Learned counsel Sri.Praveen Kumar for respondent would submit that all the contentions raised by the State in the present writ petition are considered by this Court in



earlier writ petitions relating to similarly situated Sweepers and the said order was also taken to the Hon'ble Apex Court and the Hon'ble Apex Court rejected the SLP of the petitioner/State. Thus, he would pray for dismissal of the writ petition.

6. On hearing the learned counsel for the parties and on perusal of the entire writ petition papers, we are of the considered view that the contentions canvassed by the State are considered by this Court in Writ Petition No.52310/2018 dated 20.12.2018 and the State's writ petition was rejected. Against the said order, SLP was filed by the State in SLP No.21311/2020 and the said SLP was dismissed on the ground of delay as well as on merits. Earlier co-ordinate Bench in Writ Petition No.39280/2016 and 43047-43048/2016 (S-KAT) dated 09.08.2016 considered similar contention and Para Nos.3, 4 and 5 of the said order reads as follows:

3. Upon hearing the learned Advocates appearing on both the sides, it appears that similar orders passed by the Tribunal in



respect of applicants working as Sweepers came to be challenged before this Court in W.P. No.41225/2015 and allied matters, wherein this Court vide order dated 01.06.2016, has not interfered with the orders passed by the Tribunal and the said petitions were dismissed.

4. We may record that this Court in the above referred order dated 01.06.2016 has observed thus:

" As in all these petitions, common order of the Karnataka Administrative Tribunal (hereinafter referred to as 'the Tribunal' for the sake of brevity) is challenged, they are considered simultaneously.

2. These petitions are directed against the orders dated 21.08.2013 and 12.06.2015 passed by the Tribunal, whereby the Tribunal for the reasons recorded in the order has directed the respondents to regularize the services of the applicants and grant all further consequential benefits.

3. We have heard Mr.H.T.Narendra Prasad, learned AGA for the petitioners and Smt.Revathy Adinath Narde, learned Counsel appearing for the respondents in W.P. No.41225/2015 c/w W.P.Nos.45502 and 45932-935/2015.

4. As such, if the order of the Tribunal is considered, it has relied upon the decisions of the Apex Court in



*the case of **Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others** reported at **2006 (4) SCC 1** read with the subsequent decision of the Apex Court in the case of the **State of Karnataka and Others Vs. M.L.Kesari and Others** reported at **(2010) 9 SCC 247**, whereby the direction was issued by the Apex Court to consider as one time measure to all those employees who were working on temporary basis but completed ten years of service as on 10.04.2006 for the purpose of regularization.*

*5. However, the learned AGA appearing for the petitioners contended that the respondents were paid out of contingency fund and therefore no regular posts were available at the relevant point of time when they were appointed. Such being a distinguishing circumstance, the decision of the Apex Court in the case of **Uma Devi** (supra) read with the subsequent decision of the Apex Court in the case of **M.L.Kesari** (supra), would not be applicable.*

6. When we put a query to the learned AGA to show any material on the basis of which the contention can be supported that the posts were not available and the respondents were to be paid from contingency fund, he is unable to show any contemporaneous



record neither produced before the Tribunal or before this Court.

7. Only a lame attempt was made by the learned AGA by relying upon the order dated 20.10.1981 (copy whereof is produced at Annexure 'A1') to show that there were no regular posts and the payments were to be made from Contingency Fund.

*8. In our view, even if the document at Annexure 'A1' dated 20.10.1981 is considered, there is no reference whatsoever to posts\ temporarily created nor to the disbursement of the salary from the contingency fund. On the contrary, the perusal of the order shows that when the respondents were appointed, they were made entitled to the regular pay scale of Rs.250-400 per month. Merely because the word used is "temporarily", it cannot be read to dilute the effect of the decision of the Apex Court in the case of **Uma Devi** (supra). On the contrary, the decision of the Apex Court in case of **Uma Devi** (supra), is essentially with the purpose that if the regular scales were being paid and regular posts were available, merely because the appointments were given on temporary basis should not be a ground to deprive those employees of their legitimate pensionary and other benefits if they have continued in service for a period of ten years on 10.04.2006 on temporary basis. Hence, the contention cannot be accepted.*



9. In view of the above, read with the reasons recorded by the Tribunal, we do not find any case made out for interference. Hence, all the petitions are dismissed."

5. Learned counsel appearing for petitioners is not in a position to show any distinguishing circumstance and hence, the present petitions in view of the reasons recorded by us hereinabove, deserve to be dismissed. The petitions are dismissed accordingly.

7. In view of the earlier order passed by co-ordinate Bench, we do not propose to re-examine the contentions once again. We do not find any merit in the writ petition.

Accordingly, the Writ Petition is ***rejected***.

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

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