



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 29754 OF 2024 (S-KSAT)

BETWEEN:

V.SHIVANANDA
S/O LATE VENKATARAYAPPA,
AGED ABOUT 55 YEARS,
RESIDING AT A BLOCK,
POLICE QUARTERS,
CHIKKABALLAPURA - 562 101.

...PETITIONER

(BY SRI. RAJESWARA P N.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY,
HOME DEPARTMENT,(POLICE SERVICE),
VIDHANA SOUDHA
BENGALURU - 560 001.
2. THE DIRECTOR GENERAL AND INSPECTOR
GENERAL OF POLICE
NRUPATHUNGA ROAD,
BENGALURU - 560 001
3. SUPERINTENDENT OF POLICE
CHIKKABALALPURA DISTRICT,
ANAKANURU, SIDLAGHATTA ROAD
CHIKKABALLAPURA - 562 101

...RESPONDENTS

(BY SRI. K.R.RAJENDRA, AGA)

Digitally signed by
NANJUNDACHARI
Location: High
Court of
Karnataka



THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE ORDER DATED 02.01.2024 IN A.No-2025/2022 PASSED BY THE KSAT AT BENGALURU ANNEXURE-A AND CONSEQUENTLY SET ASIDE THE ORDER OF DISMISSAL BEARING No-07/DE/NI-6/2021 O.B No-31/2022 DATED 15.03.2022 IN O.T No-31/2022 PASSED BY THE 3RD RESPONDENT AT ANNEXURE-A8 AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

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

The petitioner, aggrieved by the order dated 02.01.2024 in Application No.2025/2022 whereunder, prayer of the petitioner to quash the order dated 15.03.2022 (Annexure-A8) penalty of dismissal from service passed by the 3rd respondent-Superintendent of Police with a further direction to reinstate the petitioner into service was rejected.

2. The brief facts of the case are that:

That the petitioner was working as Head Constable in the District Armed Reserve Force at Chikkaballapura District. During the relevant period i.e. in the year 2021, on the allegation that on 07.05.2021, the petitioner misbehaved with



his official superior i.e., Sub-Inspector of Police and also on the allegation that the petitioner used filthy language against the superior officer while the superior officer was on official duty, enquiry was initiated against the petitioner by order dated 06.08.2021 by the 3rd respondent. The 3rd respondent appointed an enquiry officer to frame charge and to conduct enquiry. Accordingly, the enquiry was conducted and enquiry officer submitted his report on 23.10.2021 holding that, charge against the petitioner is proved. The petitioner had failed to participate in the enquiry. However, second show-cause notice dated 07.01.2022 was issued to the petitioner enclosing the enquiry report. The petitioner failed to submit his reply to the second show-cause notice also. Considering the enquiry report, 3rd respondent-Disciplinary Authority under impugned order dated 15.03.2022 imposed punishment of dismissal from service on the petitioner and treated the period from the date of suspension to the date of dismissal as suspension period. Questioning the order of dismissal dated 15.03.2022, the petitioner was before the Tribunal in the above stated application, contending that no proper opportunity was provided to participate in enquiry and also contended that the



punishment of dismissal is disproportionate to the nature of allegation. The Tribunal, on examination of the entire material before it, dismissed the application holding that looking to the nature and gravity and seriousness of the charge proved against the petitioner, penalty so imposed is reasonable, appropriate and proportionate. Against which, the petitioner is before this Court in this writ petition.

3. Heard learned counsel Sri.Rajeshwara P.N., for petitioner and learned AGA Sri.K.R.Rajendra for respondents. Perused the entire writ petition papers, including the enquiry records produced by the learned AGA.

4. Learned counsel Sri.Rajeshwara for petitioner at the outset would submit that as the petitioner has not participated in the enquiry and when the charges are proved by the Disciplinary Authority by examining 7 witnesses, the petitioner confines his ground of challenge to proportionality of punishment. Learned counsel would submit that the petitioner for the reason of Covid-19 period or otherwise remained absent from enquiry proceedings. However, he submits that he would



not urge other grounds which are raised in the writ petition and would restrict his ground to the proportionality of punishment.

5. Learned counsel Sri.Rajeshwara taking us through the charge alleged against the petitioner would submit that the said charge of using filthy language against his superior would not warrant imposition of major penalty of dismissal from service, that too while the petitioner has rendered more than 25 years of blemishless service in the department. Learned counsel would submit that in identical fact situation, the Hon'ble Apex Court in ***JAI BHAGWAN v/s COMMISSIONER OF POLICE AND OTHERS*** reported in ***(2013)11 SCC 187*** modified the order of dismissal to that of reduction in rank. Thus, placing reliance on the said decision, learned counsel for the petitioner would pray for modification of the order of punishment by imposing lesser punishment than punishment of dismissal from service.

6. Per contra, learned AGA Sri.Rajendra for respondents would support the order passed by the Tribunal as well as order of penalty imposed by 3rd respondent. Learned AGA would submit that the petitioner was working in Discipline Police



Force, and when he was working in the Discipline force, he could not have behaved in a manner alleged against him in a public place. Learned AGA would submit that the petitioner used filthy language against Sub-Inspector Sri.Sharath Kumar and he could not have stopped the said Sub-Inspector from discharging his duty that too when Sub-Inspector was on Bandobasth duty, as the District in-charge Minister was visiting Chikkaballapura. Learned AGA would further submit that the charge against the petitioner is proved by examining 7 witnesses and documentary evidence. When a serious charge of using filthy language against his superior officer Sub-Inspector is proved, punishment of dismissal from service is proper and he prays for dismissal of the writ petition.

7. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, we are of the considered opinion that in the peculiar facts and circumstances of the case, taking note of alleged act of the petitioner during Covid-19 period, penalty of dismissal from service imposed on the petitioner is disproportionate and punishment of compulsory retirement from service would be appropriate.



8. The sum and substance of the charge against the petitioner is that on 07.05.2021, when Sri.Sharath Kumar, Sub-Inspector, Traffic Police Station, Chikkaballapur was in-charge of Bandobasth duty at Shidlaghatta Circle as the District in-charge Minister was visiting Chikkaballapura District Hospitals on the said date, the petitioner is said to have come on two wheeler and when he was asked to use alternate way, he used filthy language against the said Sub-Inspector with loud voice. The said act of the petitioner amounted to misconduct.

9. Before the Enquiry Officer, the Disciplinary Authority examined 7 witnesses and as stated earlier, the petitioner had failed to participate in the enquiry proceedings though enquiry notice was served upon him. The enquiry officer based on the unchallenged oral and documentary evidence, held that the charges alleged against the petitioner are proved. The petitioner also failed to submit any reply to the second show-cause notice dated 07.01.2022. Respondent No.3-Disciplinary Authority on the proved charge of misconduct imposed punishment of dismissal from service on the petitioner. The only question that remains to be examined in the light of the



above peculiar facts is that whether the penalty of dismissal from service is proportionate to the nature and gravity of the charge alleged against the petitioner. Before examining the said question, it would be useful to refer to the decision of the Hon'ble Apex Court in **JAI BHAGAWAN** referred to supra wherein the allegation against the delinquent official was that he shouted at his superior officer i.e., Checking Officer and also refused to give log book when asked to do so. The Disciplinary Authority had imposed punishment of dismissal and the Hon'ble Apex Court in the said circumstances held that the penalty of dismissal from service would be disproportionate to the nature and gravity of the charge.

10. In the instant case also, the proved allegation against the petitioner is of using filthy language against his superior officer in the public place. No doubt, the petitioner is in a discipline police force, however, the fact of petitioner serving in the department for more than 25 years cannot be ignored. Moreover, during Covid-19 period police personnel were under great pressure and it is not known under what circumstances such filthy language was used. However, for the charge of



using filthy language in the facts and circumstance would not warrant major penalty of dismissal.

11. It is also true that it is for the Disciplinary Authority to impose penalty on the proved misconduct or proved charge. Further, in the instant case, the petitioner is aged about 57 years and as the petitioner is out of service for the last more than 5 years, we deem it appropriate to modify the punishment instead of sending the matter back to the Disciplinary Authority.

12. For the reasons recorded above, we pass the following:

ORDER

(i) The writ petition is allowed in part.

(ii) The order of the Tribunal dated 02.01.2024 in Application No.2025/2022 is set aside.

(iii) The order of penalty of dismissal from service bearing No.07/ಡಿಇ/ನಿ-6/2021, ಓ.ಬಿ.ನಂ.31/2022 dated 15.03.2022 is modified to that of 'compulsory retirement'.



In view of the modification of the order of penalty, the respondents are directed to settle the consequential benefits, within a period of 3 months from today.

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

**Sd/-
(RAJESH RAI K)
JUDGE**

MPK
CT:RK
List No.: 1 Sl No.: 8