

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.1651 OF 2023 (L, KSRTC)

BETWEEN:

BANGALORE METROPOLITAN
TRANSPORT CORPORATION
K. H. ROAD
SHANTHINAGAR
CENTRAL OFFICE
BMTC
BANGALORE
BY ITS CHIEF PERSONNEL MANAGER
REP BY ITS CHIEF LAW OFFICER

...APPELLANT

(BY SMT. RENUKA H. R., ADVOCATE)

AND:

N. SUBHASH
S/O MANJAYYA SEREGAR
AGED ABOUT 55 YEARS
NO.60

Digitally
signed by
PAVITHRA N
Location:
High Court of
Karnataka

4TH CROSS
GMR LAYOUT
SANJAYNAGAR
BENGALURU-560 094

...RESPONDENT

(BY SRI. MUKKANNAPPA S. B., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 20.04.2023 IN W.P. No.48442/2013 AND WRIT PETITION MAY KINDLY BE DISMISSED.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 23.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

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

This appeal is filed challenging the Order dated 20.04.2023 passed by the learned Single Judge in Writ Petition No.48442/2013 (L-KSRTC).

2. We have heard Smt. Renuka H.R, learned counsel appearing for the appellant and Shri. Mukkannappa. S.B, learned counsel appearing for the respondent.

3. The learned counsel appearing for the appellant submits that the respondent joined the services of the North West Karnataka Road Transport Corporation ('NWKRTC') as a Conductor in Sirsi Depot on 07.02.1990 and was placed on probation with effect from 09.01.1993. The appellant - Corporation issued a Notification dated 02.04.2008 inviting applications for the post of Junior Assistant through direct recruitment as well as in-service recruitment. The respondent applied under the in-service quota and was selected for the post of Junior Assistant-cum-Data Entry Operator. He was deputed for training vide order dated 09.07.2008, subject to verification of the authenticity of the

documents produced by him. Upon verification of the documents produced by him in support of his educational qualification, the University, by its report dated 03.05.2010 stated that the educational certificates produced by the respondent were fake. Consequently, Articles of Charge dated 04.06.2010 were issued alleging that the respondent had secured appointment by producing fabricated documents and suppressing material facts. The respondent submitted his reply on 09.07.2010. After conducting a summary enquiry, the appointing authority, by order dated 03.11.2011, removed the respondent's name from the list of Junior Assistant-cum-Typist and terminated his appointment to the said post.

4. Aggrieved by the said order, the respondent raised an industrial dispute in I.D.No.35/2011 before the III Additional Labour Court, Bengaluru. The Labour Court upon adjudication of the dispute held that the domestic enquiry conducted against the workman was fair and proper and also the charge against the workman was held to be proved. Accordingly, the Labour Court rejected the claim of the

respondent by Award dated 26.02.2013. The respondent thereafter challenged the Award in Writ Petition No.48442/2013.

5. The learned Single Judge observed that it was undisputed that the workman was initially appointed as a Conductor and was subsequently selected as a Trainee Junior Assistant. Placing reliance on the decision of the Apex Court in the case of **State of Rajasthan v. S.N. Tiwari** reported in **(2009) 4 SCC 700** and considering Rule 20 of the Karnataka Civil Services Rules, the learned Single Judge held that an employee retains lien over his original post until he is permanently absorbed in the new post. It was noticed that Regulation 12 of the Karnataka State Road Transport Corporation (Cadre and Recruitment) Regulations, 1982, specifically provides that an in-service candidate who fails to satisfactorily complete training shall be reverted to the post held by him prior to such selection and training.

6. The learned Single Judge therefore held that, though the charge of securing appointment to the post of Junior Assistant by producing fake documents was proved

and the Labour Court was justified in upholding the misconduct, the Corporation was not justified in denying the workman reversion to his substantive post of Conductor, as his lien over the said post had not been terminated. Consequently, the writ petition was allowed, the award dated 26.02.2013 was set aside insofar as it refused reversion to the original post. The Corporation was directed to reinstate the workman as a Conductor with continuity of service from 03.11.2011, but without any back wages.

7. The learned counsel appearing for the appellant contends that the direction issued by the learned Single Judge directing reinstatement of the respondent as a Conductor is legally unsustainable. The respondent was originally appointed as a Conductor under the NWKRTC, a distinct and separate Corporation, and not under the appellant - Corporation. The respondent was subsequently selected for the post of Junior Assistant-cum-Data Entry Operator pursuant to Notification issued by the appellant under the in-service quota. The selection was in the nature of a direct recruitment process conducted by the appellant

and therefore, the appellant could not have been directed to continue or reinstate the respondent to the post of Conductor, which he had never held under the appellant - Corporation.

8. It is further contended that the reliance placed by the learned Single Judge on Regulation 12 of the Karnataka State Road Transport Corporation (Cadre and Recruitment) Regulations, is misconceived. The provision relating to reversion to the original post applies only where an employee appointed from another post within the same Corporation retains a lien over such post until permanent absorption. In the present case, the respondent was not an employee of the appellant - Corporation in the cadre of Conductor and therefore, no question of retaining lien or seeking reversion against the appellant would arise.

9. It is further contended that the respondent secured selection to the post of Junior Assistant-cum-Data Entry Operator by producing fake educational certificates and therefore, his name was rightly removed from the select list in terms of Regulation 4(9) of the KSRTC (Cadre and

Recruitment) Regulations, 1982. An employee who has secured appointment by fraudulent means cannot claim any equitable relief or seek continuation in service.

10. It is also contended that NWKRTC, under which the respondent was originally appointed as a Conductor, was not impleaded as a party to the proceedings. Consequently, no direction could have been issued affecting a post under a separate Corporation. The appellant - Corporation has its own service regulations and has not adopted the Karnataka Civil Services Rules ('KCSR'). Therefore, the application of the principles relating to lien under the KCSR Regulation 12 of the Karnataka State Road Transport Corporation (Cadre and Recruitment) Regulations to the facts of the present case is erroneous.

11. The learned counsel appearing for the respondent contends that no domestic enquiry was conducted nor was any opportunity of hearing afforded to him. The appellant, without obtaining approval under Section 33(2)(b) of the Industrial Disputes Act, proceeded to pass the order of dismissal. In view of the law laid down by the Apex Court in

the case of ***Jaipur Zilla Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma*** reported in ***2002 (1) LLJ 834***, the dismissal order is *non-est* in law. The allegation that the respondent secured employment by producing a fake degree certificate is based solely on a letter dated 03.05.2010 purportedly issued by Devi Ahilya University, Indore, Madhya Pradesh. The author of the said letter was never examined and the contents thereof are disputed by the respondent. The respondent had served as a Conductor for about 18 years and was selected as a Junior Assistant/Typist under the in-service quota without resigning from his original post. Though his name was removed from the select list of Junior Assistant/Typist, his lien over the post of Conductor continued. In similar circumstances, this Court in Writ Petition No.5848/2009 (S-KSRTC) had recognised the said position and permitted the concerned party to make an appropriate representation.

12. We have considered the contentions advanced. We notice that the operative portion of the order passed by

the Chief Personnel Manager and Appointing Authority dated 03.11.2011 reads as follows:-

"ORDER

I, the Chief Personnel Manager and appointing authority B Venkatesh, in terms of regulation 4(9) of KSRTC cadre and Recruitment Regulations 1982 adopted by Bangalore Metropolitan Transport Corporation, remove the name of Sri N Subhash from the select list of Junior Assistant Cum Data Entry Operator and the right to appointment to the said post is forfeited permanently."

Aggrieved by the same, an Industrial Dispute was raised by the respondent herein. Apart from challenging the termination, a further relief was sought for, which reads as follows:-

"(c) Direct the Second Party - Management without prejudice to the right of the First Party for reinstatement as Junior Assistant-cum-Typist and alternatively the First Party may be reverted to the post of Conductor as there is a lien maintained being in service candidate on the said post as per the service conditions of the First Party;"

13. The second party in the claim petition was the Chief Personnel Manager and the Appointing Authority B.M.T.C Central Offices, Shanthinagar, Bengaluru. A

counter statement was filed by the said second party specifically stating as follows:-

" 7. x x x x x

(iii) As against the averments made in para 6 of the Claim Statement, it is false that the I party entered into the service of the II party as conductor on 07.02.1990. Instead, the II Party submits that the I Party joined on 07.02.1990 in NWKRTC, Sirsi Division, and the same was based on the records required for appointment of the Conductor namely., Marks Sheets of SSLC Examination. The averments of the I party contrary to the above is denied as false. In the present case, it is the marks sheet of the degree that has been produced to secure the job of Junior Assistant cum Typist and enquiry it is noticed that the said mark sheet is fake ad bogus."

14. The matter was considered by the Labour Court after recording evidence. An issue was raised as Issue No.2 - "Whether the second party Management proves that the petition under Section 10(4-A) of the Industrial Disputes Act is bad for non-joinder and mis-joinder of necessary parties?" The said issue was answered against the second party - Management. However, the issue "Whether the order of termination was bad" was answered in favour of the Management and against the respondent herein. Therefore, on a finding that the order of termination was not bad in

law, the petition under Section 10(4-A) of the Industrial Disputes Act was rejected. It was this order which was under challenge in the writ petition. It is therefore clear that the contention that the private respondent herein was not initially an employee of the Bengaluru Metropolitan Transport Corporation ('BMTC'), had been specifically taken by the appellant before the Labour Court. Before this Court also, an objection was filed by the appellant herein specifically stating that the respondent was not an employee of the BMTC and that he was originally working as a conductor in the NWKRTC.

15. The learned Single Judge did not interfere with the findings of the Labour Court as regards the termination of the respondent from the post of Junior Assistant-cum-Typist. However, the finding was only to the effect that the writ petitioner had not been absorbed to the post of Junior Assistant when his name was deleted from the selection list and that he continued to retain his claim over his earlier post of conductor. However, it is to be noticed that the specific case of the appellant that the respondent was never

employed as a conductor under the appellant stands uncontroverted even as on today. Therefore, the claim of the appellant for appointment in continuation as conductor could not have been decided without the original employer on the party array. In any view of the matter, even if the contention with regard to retention of lien is accepted, the lien can only be in the service of the employer where the respondent was originally working and not in the BMTC.

16. In the above factual background, we are of the opinion that the finding recorded by the learned Single Judge and the direction issued to the appellant to reinstate the writ petitioner as conductor could not have been passed, as against the appellant.

17. In the above circumstances, we are of the opinion that the direction issued by the learned Single Judge requires interference.

18. Accordingly:-

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

(ii) The Order dated 20.04.2023 passed by the learned Single Judge in Writ Petition No.48442/2013, is set aside, leaving open the right of the respondent to approach the appropriate Authorities in accordance with law.

(iii) Writ Petition No.48442/2013 is dismissed.

Ordered accordingly.

All pending interlocutory applications shall stand disposed of.

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**

PN