

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 36795 OF 2025 (S-KSAT)

BETWEEN:

SRI GANGADHARA B V
S/O SRI. VENKATESHAPPA,
AGED ABOUT 35 YEARS.
WORKING AS DEPUTY REGISTRAR
OF CO-OPERATIVE SOCIETIES,
NO.1, ALI ASKAR ROAD,
BENGALURU-560 052.

PRESENTLY R/AT NO.138,
BHAKTARAHALLI,
SHIDDALAGHATTA TALUK,
CHIKKABALLAPURA- 562 102.

...PETITIONER

(BY SRI. ABHINAV R., ADV.)

AND:

Digitally signed by
NANJUNDACHARI
Location: HIGH
COURT OF
KARNATAKA

1. THE STATE OF KARNATAKA
REP. BY ITS CHIEF SECRETARY,
GOVERNMENT OF KARNATAKA,
AMBEDKAR VEEDHI,
VIDHANA SOUDHA,
BENGALURU-560 001.
2. THE SECRETARY,
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS (SERVICES-7),
STATE OF KARNATAKA,
AMBEDKAR VEEDHI,
VIDHANA SOUDHA,
BENGALURU- 560 001.

3. KARNATAKA PUBLIC SERVICE COMMISSION,
REP. BY ITS SECRETARY,
UDYOGA SOUDHA,
RESIDENCY PARK ROAD,
BENGALURU- 560 001.

...RESPONDENTS

(BY SRI. V SHIVAREDDY, AGA FOR R1 & R2
SRI K.M. PRAKASH, ADV. FOR R3)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) CALL FOR RECORDS FROM THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BANGALORE IN RESPECT OF THE IMPUGNED ORDER DATED 20/11/2025 PASSED IN APPLICATION NO.4390/2024 (ANNEXURE-A) AND B) ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING IMPUGNED ORDER DATED 20/11/2025 PASSED IN APPLICATION NO.4390/2024 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, AT BENGALURU VIDE ANNEXURE-A AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **21.04.2026** COMING ON THIS DAY, **S.G.PANDIT J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE K. V. ARAVIND

CAV JUDGMENT

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

Unsuccessful applicant before the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') is before this Court questioning order dated 20.11.2025 in Application No.4390/2024 whereunder the petitioner's prayer to quash endorsement dated 02.07.2024 rejecting his request to consider his

candidature for the post of Tahsildar Grade-II instead of Assistant Registrar of Co-operative Societies, is rejected.

2. The petitioner, in pursuance to KPSC notification dated 12.05.2017 calling applications from the eligible candidates to fill up 423 Gazetted Probationers (Group-A and B) posts, applied claiming reservation under Category-3A and Rural Category. The petitioner qualified in the Gazetted Probationers preliminary examination by scoring 201 out of 400 marks. Having qualified in the Gazetted Probationers preliminary examination 2017, he was invited to apply for the Gazetted Probationers main examination 2017. The petitioner qualified in the said main examination with 1048.25 marks including the marks in the personality test. In the application, the petitioner had given his first preference to the post of Deputy Superintendent of Police, fifth preference to the post of Tahsildar Grade-II and tenth preference to the post of Assistant Registrar of Co-operative Societies. The petitioner herein was selected to the post of Assistant Registrar of Co-operative Societies (Group-B) in terms of

notification dated 10.01.2020. The Registrar of Co-operative Societies by notification dated 30.05.2020 notified the appointment of the petitioner to the post of Assistant Registrar of Co-operative Societies and in pursuance to the said notification, he reported to duty on 01.06.2020. On reporting to duty, the petitioner is said to have made an application under the Right to Information Act, 2005 to the Selecting and Appointing Authority and obtained information that one Srinivasa.K.R., and Chandrashekar Shambanna Gali have not reported to duty to the post of Tahsildar and Deputy Superintendent of Police respectively. Based on the said information, the petitioner is said to have submitted representation to consider his candidature for the vacant post of Tahsildar or to the post of Deputy Superintendent of Police in place of Srinivasa.K.R., and Chandrashekar Shambanna Gali, respectively.

3. As the representation of the petitioner was not considered for considerable time, the petitioner approached the Tribunal in Application No.59/2021 and

the said application was disposed of on 20.02.2023 directing the respondents to consider the representation and to pass appropriate order. In the said application, in the objection statement filed by the respondent-State, it was specifically contended that the vacancies that are not filled by selected candidates shall be treated as fresh vacancies and have to be filled in the next upcoming recruitment. Further, it was contended that there is no provision in the Rules to consider the next candidate.

4. In pursuance to the direction of the Tribunal, the respondents considered the representation of the petitioner and issued endorsement dated 01.04.2023 stating that in terms of Rule 11(3) of the Karnataka Gazette Probationers (Recruitment through Competitive Examinations) Rules, 1997 (for short, 'Rules, 1997'), the selection shall have to be made and there is no provision to fill up the vacancy arising out of non-reporting of selected candidates. Aggrieved by the said endorsement, the petitioner approached the Tribunal in Application No.1502/2023. The Tribunal by its order dated 19.09.2023

(Annexure-A28) allowed the application and directed the respondents to consider the representation of the petitioner in view of the law declared by the Co-ordinate Bench of this Court in the case of **STATE OF KARNATAKA AND OTHERS VS. SRI.NAGENDRA.G.K., dated 08.07.2022** in **W.P.No.577/2022** and to extend all consequential benefits. In pursuance to the said direction, the respondent-authorities considered the representations of the petitioner and under impugned endorsement dated 02.07.2024 (Annexure-A29), rejected the request of the petitioner to select him to the post of Tahsildar Grade-II in place of a non-reported candidate. Questioning the endorsement dated 02.07.2024, the petitioner was before the Tribunal in Application No.4390/2024, which came to be dismissed by the Tribunal vide impugned order dated 20.11.2025. Questioning the said impugned order passed by the Tribunal as well as endorsement dated 02.07.2024, petitioner is before this Court in this writ petition.

5. Heard learned counsel Sri.Abhinav.R., for petitioner, learned Additional Government Advocate

Sri.V.Shivareddy for respondent Nos.1 and 2 and learned counsel Sri.K.M.Prakash for respondent No.3. Perused the entire writ petition papers.

6. Learned counsel Sri.Abhinav.R., for petitioner would contend that the impugned order passed by the Tribunal is totally opposed to the material on record and further he submits that the order of the Tribunal is opposed to the settled position of law, particularly, in **SRI.NAGENDRA.G.K.**, (supra). It is submitted that the petitioner was selected and appointed as Assistant Registrar of Co-operative Societies whereas, the post in the cadre of Deputy Superintendent of Police i.e., Chandrashekar Shambanna Gali and Tahsildar Grade-II i.e., Srinivasa.K.R., became vacant due to non-participation in the selection process or non-reporting to duty and to that post the petitioner being the next eligible candidate would be entitled to be considered. Learned counsel places reliance on the decision of the Co-ordinate Bench of this Court in **SRI.NAGENDRA.G.K.**, (supra) by submitting that the said decision was taken up to Hon'ble

Apex Court by the State, which is dismissed by confirming the order of Co-ordinate Bench in **SRI.NAGENDRA.G.K.,** (supra). Further, learned counsel would submit that the Tribunal specifically directed the authorities to consider the case of the petitioner for revised selection to the post which became vacant due to non-reporting to duty in the light of the observations of the Co-ordinate Bench decision in **SRI.NAGENDRA.G.K.,** (supra). However, he submits that the authorities failed to consider the case of the petitioner in proper perspective and without taking note of the principles laid down in **SRI.NAGENDRA.G.K.,** (supra). Thus, he would pray for allowing the writ petition and to direct the respondents to appoint the petitioner to the vacancy that had arisen due to non-participation of the candidates in the selection process as well as non-reporting to duty.

7. Per contra, learned counsel Sri.K.M.Prakash appearing for KPSC would contend that there is no provision in the Rules, 1997 to select the next meritorious candidate if the selected candidate fails to report to duty.

Further, he would submit that amendment is brought into effect to Rule 11 of Rules, 1997 by adding one proviso whereunder if a vacancy arises due to non-reporting to duty by a selected candidate, such vacancy shall be treated as fresh vacancy to be filled in the next or subsequent recruitment. Further, learned counsel Sri.K.M.Prakash would place reliance on the latest decision of the Hon'ble Apex Court in the case of **STATE OF KARNATAKA AND OTHERS VS. SANTHOSH KUMAR.C (AIR 2026 SC 1664)** and submits that the Hon'ble Apex Court interpreting Rule 11 of Rules, 1997 in support of 2011 Gazetted Probationers selection process, held that a post left unfilled on account of non-completion of pre-appointment formalities or non-joining by a selected candidate could not be claimed by next candidate and that vacancy shall be treated as fresh vacancy. Thus, he would pray for dismissal of the writ petition.

8. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition

papers, the only point which falls for our consideration is as to,

"Whether the impugned order passed by the Tribunal and the impugned endorsement warrants interference at the hands of this Court?"

9. Answer to the above point would be in the Negative for the following reasons:

It is not in dispute that the petitioner was selected and appointed as Assistant Registrar of Co-operative Societies by notification dated 30.05.2020 in pursuance to the selection process conducted in pursuance to Rules, 1997 and in pursuance to Gazetted Probationers (Group-A and B) recruitment notification dated 12.05.2017. It is also not in dispute that the petitioner had given first preference to the post of Deputy Superintendent of Police, fifth preference as Tahasildar Grade-II and tenth preference as Assistant Registrar of Co-operative Societies. Thereafter, the petitioner made representation requesting the authorities to consider his case for selection to the post of Deputy Superintendent of Police or to the post of

Tahasildar Grade-II on the ground that the selected candidates i.e., Chandrashekar Shambanna Gali and Srinivasa.K.R., respectively failed to participate in the selection process and failed to report to duty respectively.

10. Initially the petitioner's request was rejected by endorsement dated 01.04.2023 and subsequently in pursuance to the direction of the Tribunal dated 19.09.2023 in Application No.1502/2023, the petitioner's representation was once again re-considered and impugned endorsement dated 02.07.2024 was issued rejecting the request of the petitioner to consider his case for appointment as Tahasildar Grade-II or Deputy Superintendent of Police on the ground that there is no provision under Rules, 1997 and also specifically stating that the vacancy arising out of a non-reporting of a selected candidate shall be treated as fresh vacancy to be filled in the next or subsequent recruitment.

11. The Tribunal directed the respondents to consider the case of the petitioner in the light of decision

of the Co-ordinate Bench in **SRI.NAGENDRA.G.K.,** (supra) and further learned counsel for the petitioner also places heavy reliance on the decision in **SRI.NAGENDRA.G.K.,** (supra) in support of the petitioner's prayer. The decision in **SRI.NAGENDRA.G.K.,** (supra) related to Gazetted Probationers Recruitment under notification dated 12.05.2017 and the petitioner also participated in the selection process under the same notification. In **SRI.NAGENDRA.G.K.,** (supra), the Co-ordinate Bench proceeded by observing that it was not a case where any orders of appointment has been issued and the candidate so selected has failed to report to duty. In **SRI.NAGENDRA.G.K.,** (supra), vacancy had arisen as one selected candidate had not completed the verification process. Learned counsel Sri.Abhinav.R., submitted that in the instant case also vacancy had arisen in Tahasildar Grade-II because a selected candidate failed to participate in the selection process i.e., non-participating in the process of verification of documents. Therefore, he

submitted that **SRI.NAGENDRA.G.K.**, (supra), would squarely apply to the facts of the present case also.

12. Moreover, **SRI.NAGENDRA.G.K.**, (supra) would also have no application to the present case since the said order was passed by the Co-ordinate Bench on 08.07.2022, whereas, proviso to Rule 11(3) of Rules, 1997 was inserted by notification dated 08.08.2022, which reads as follows:

"ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ:ಸಿಆಸುಇ 129 ಸೇಲೋನ್ 2021 ದಿನಾಂಕ:08-08-2022ರಲ್ಲಿ ಗೆಜೆಟೆಡ್ ಪ್ರೊಬೇಷನರ್ಸ್ ನೇಮಕಾತಿ ನಿಯಮಗಳ ನಿಯಮ 11ಕ್ಕೆ ತಿದ್ದುಪಡಿ ತರಲಾಗಿದ್ದು, ಸದರಿ ನಿಯಮಗಳಡಿ ಒಂದು ಪರಂತುಕವನ್ನು ಸೇರ್ಪಡೆ ಮಾಡಲಾಗಿದೆ. ಸದರಿ ನಿಯಮದ ಉದ್ಭವ ಭಾಗ ಈ ಕೆಳಕಂಡಂತಿದೆ.-

"Provided further that, if a candidate consequent upon the issue of the order of appointment, does not report for duty, the vacancy against which he was selected shall be treated as a fresh vacancy to be filled in the next or subsequent recruitment"

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ನೇಮಕಾತಿ ಆದೇಶ ಹೊರಡಿಸಿದ ನಂತರ ಹುದ್ದೆಯ ಕರ್ತವ್ಯಕ್ಕೆ ಹಾಜರಾಗದ ಅಭ್ಯರ್ಥಿಯಿಂದ ತೆರವಾದ

ಹುದ್ದೆಯನ್ನು ಹೊಸ ಲಿಕ್ಟ್ ಸ್ಥಾನವೆಂದು ಮುಂದಿನ ನೇಮಕಾತಿಗೆ ಪರಿಗಣಿಸಬೇಕಾಗುತ್ತದೆ.

ಆದರೆ, ನಾಗೇಂದ್ರ ಜಿ.ಕೆ. ಇವರ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಲಿಟ್ ಅರ್ಜಿ 2:08-07-20220 ನ್ಯಾಯಾಲಯವು ನೀಡಿರುವ ಆದೇಶವು ಮೇಲ್ಕಂಡ ನಿಯಮಗಳ ತಿದ್ದುಪಡಿಗೂ ಮುನ್ನ ಹೊರಡಿಸಿದ ಆದೇಶವಾಗಿರುವುದರಿಂದ. ಸಂಖ್ಯೆ: 577/2022ರಲ್ಲಿ ದಿನಾಂಕ: 08.07.2022 ರಂದು ನ್ಯಾಯಾಲಯವು ನೀಡಿರುವ ಆದೇಶವು ಮೇಲ್ಕಂಡ ನಿಯಮಗಳ ತಿದ್ದುಪಡಿಗೂ ಮುನ್ನ ಹೊರಡಿಸಿದ ಆದೇಶವಾಗಿರುವುದರಿಂದ, ಈ ಪ್ರಕರಣದಲ್ಲಿ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಕ್ರಮವಹಿಸಲಾಗಿರುತ್ತದೆ."

13. The order in **SRI.NAGENDRA.G.K.**, (supra), was passed prior to the above amendment to Rule 11(3) of Rules, 1997. Moreover, the latest decision of the Hon'ble Apex Court in an identical fact situation wherein the Hon'ble Apex Court has considered same Rule 11(3) of Rules, 1997 in the case of **SANTHOSH KUMAR.C** (supra) squarely applies to the facts of the instant case. Paragraphs 8, 9, 10, 11, 12, 19 and 20 of **SANTHOSH KUMAR.C** (supra) reads as follows:

"8. The first proviso to Rule 11(3) also makes it clear that inclusion in the list does not by itself result in appointment. Appointment remains subject to such enquiry and verification as may be

considered necessary and to the satisfaction of the Government regarding suitability. Significantly, the 1997 Rules do not provide for any reserve list, waiting list, or additional list. Nor do they contain any provision enabling the State to revert to the same list and travel further downward to fill a post left unfilled on account of non-completion of preappointment formalities or non-joining by a selected candidate. The scheme of the 1997 Rules, therefore, is of recruitment against notified vacancies through service-wise lists prepared to the extent of available vacancies, and not of continued operation of the same list beyond its statutory framework.

9. *The above understanding also accords with the settled principle that inclusion of a candidate's name in a select list does not by itself confer an indefeasible right to appointment. A select list makes a candidate eligible for consideration in accordance with the governing rules. It does not create a vested right to claim appointment dehors the statutory framework. In **Shankarsan Dash v. Union of India [(1991) 1 SCC 47]**, this Court held that even where vacancies exist, a candidate whose name appears in the select list does not acquire an indefeasible right to appointment, unless the relevant rules so indicate. Similarly, in **Rakhi Ray v. High Court of Delhi [(2010) 2 SCC 637]**, and **State of Orissa***

v. Rajkishore Nanda [(2010) 6 SCC 777], this Court has held that appointments must conform to the notified vacancies and the governing rules, and that a select list cannot be operated in a manner not contemplated by the statutory scheme.

10. Tested on the touchstone of the aforesaid principles, in our considered opinion, the respondent's claim cannot be sustained. The respondent does not point to any provision in the 1997 Rules under which a candidate placed below a selected candidate acquires a right to be appointed to a post left unfilled on account of non-completion of pre-appointment formalities or non-joining. In the absence of such a provision, the mere fact that a selected candidate did not join cannot, by itself, create an enforceable right in favour of the respondent.

11. Applying the aforesaid principles to the facts of the present case, we find ourselves unable to sustain the claim of the respondent. The respondent was not excluded from the recruitment process altogether. He participated in the selection pursuant to the notification dated 03.11.2011 and was in fact selected and appointed to the post of Assistant Commissioner of Commercial Taxes, Group A, under the same recruitment. He joined duty on 09.05.2022. His present claim, therefore, is not one arising from total non-selection, but a claim

to appointment to another post, namely Assistant Commissioner, Karnataka Administrative Service, Group A, Junior Scale, on the ground that the selected candidate to that post did not undergo the mandatory medical examination, police verification, or report for duty.

12. The foundation of the respondent's case is that, since the selected candidate did not complete the pre-appointment process, the vacancy must necessarily go to him as the candidate immediately next below. The respondent has also sought to place reliance on the circumstance that he had indicated preference for the said post. In our view, neither of these circumstances can, by themselves, create an enforceable right in his favour. Under the 1997 Rules, the relevant question is not merely whether a post remained unfilled in fact, but whether the Rules permit such post to be filled by reverting to the same select list and moving downward to another candidate. As already noticed, the 1997 Rules contain no such enabling provision.

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19. The principal reason for the impugned order of the High Court is that, since the selected candidate did not undergo the mandatory medical

examination, the post continued to remain unfilled and, therefore, the respondent, being the candidate immediately next below, ought to have been considered against that post. In our view, this approach conflates the factual existence of an unfilled post with the legal question as to the permissible mode of filling it. Even if it were assumed that the post continued to remain vacant in fact, the further question still remained whether the 1997 Rules permitted the same select list to be operated for filling such post. It is precisely on that question that the High Court, with respect, fell into error. The High Court was also not justified in holding that Rule 11(3) of the 1997 Rules had no application to the case at hand. On the contrary, Rule 11(3), read with Rule 11(1) and sub-rule (3) of Rule 4, lies at the heart of the controversy. It is these provisions which delineate the scope of the select list, the manner in which service-wise consideration is to take place, and the limits within which appointments may be made against the vacancies notified in that recruitment. Once the Rules themselves define the contours of the list and do not provide for any reserve or additional list, the absence of a selected candidate from the field cannot enlarge the statutory operation of the list.

20. In our considered view, therefore, the impugned judgment cannot be sustained. The

Tribunal was right in holding that the 1997 Rules do not contemplate preparation or operation of any additional or waiting list, and that a post left unfilled on account of non-completion of pre-appointment formalities or non-joining by a selected candidate could not be claimed by the respondent as of right from the same selection process. The High Court erred in quashing the communication dated 27.06.2022 issued by DPAR and the order dated 13.10.2023 passed by the Tribunal."

In the above case also, it was contended by the respondent therein that vacancy had arose due to a selected candidate not undergoing the mandatory medical examination, police verification or reporting to duty.

14. In the said circumstances, the Hon'ble Apex Court taking note of Rule 11(3) of Rules, 1997 has observed that there is no specific provision to consider the case of the candidate placed below the selected candidate to a vacancy unfilled on account of non-completion of pre-appointment formalities by the selected candidate. The Hon'ble Apex Court further observed that in the absence of such provision, mere fact that selected candidate did not

join, cannot, by itself, create an enforceable right in favour of the respondent.

15. For the reasons recorded above and in view of the decision of the Hon'ble Apex Court in **SANTHOSH KUMAR.C** (supra), we are of the considered opinion that the petitioner has not made out a ground to interfere with the impugned order and impugned endorsement. Accordingly, writ petition stands dismissed.

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

**Sd/-
(K. V. ARAVIND)
JUDGE**

NC
CT:bms