



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE N.S.SANJAY GOWDA

WRIT PETITION NO.202701 OF 2017 (S-REG)

BETWEEN:

SRINIVAS S/O HANUMANAIK,
AGE: 42 YRS, OCC: NOW NIL.
(EX.WORK INSPECTOR/SUPERVISOR),
TOWN MUNICIPAL COUNCIL, SEDAM,
R/O. NADEPALLI TANDA,
TQ.SEDAM, DIST.KALABURAGI.

...PETITIONER

(BY SRI. P. VILAS KUMAR SR. COUNSEL FOR
SRI. NITESH PADIYAL, ADVOCATE)

AND:

1. THE PRL.SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT,
VIKAS SOUDHA, BENGALURU-09.
2. THE COMMISSIONER AND DIRECTORATE OF
MUNICIPAL ADMINISTRATION,
VISHWESHARAYYA TOWER,
9TH FLOOR, DR.AMBEDKAR VEEDHI,
BENGALURU-09.
3. THE DEPUTY COMMISSIONER,
KALABURAGI-09.

Digitally signed
by SUMITRA
SHEKHAR
Location: HIGH
COURT OF
KARNATAKA



4. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
SEDAM, DIST.KALABURAGI – 585102.

...RESPONDENTS

(BY SMT. ARATI PATIL, HCGP FOR R1 TO R3;
SRI HARSHAVARDHAN R. MALI PATIL, ADV. FOR R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF MANDAMUS DIRECTING THE RESPONDENTS FOR THE REINSTATEMENT OF THE PETITIONER INTO SERVICE WITH ALL CONSEQUENTIAL BENEFITS INCLUDING THE FULL BACK WAGES AND CONTINUITY OF SERVICE AND FURTHER ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS FOR THE REGULARIZATION OF SERVICE OF PETITIONER WITH RETROSPECTIVE DATE OF INITIAL APPOINTMENT DATED 28.04.1999 WITH ALL CONSEQUENTIAL BENEFITS INCLUDING THE FIXATION OF PAY NOTIONALLY.

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

CORAM: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA)

The prayer sought for by the petitioner in this petition is to issue a writ of mandamus and to direct the respondents to reinstate him into service with all consequential benefits including full back wages. A



mandamus also sought for to regularize the services retrospectively from 28.04.1999.

2. By way of an amendment, the petitioner sought to quash the order dated 31.07.2017, by which his services were terminated.

3. It may be relevant to state here that the petitioner had been terminated by an order dated 04.07.2013 and this order was challenged before this Court in W.P.No.102889/2013 and this Court by an order dated 10.03.2016, allowed the writ petition on the ground that the order of termination had been passed without holding an enquiry. The Court directed the Chief Officer of the Town Municipal Council, Sedam to hold an enquiry and the reinstatement of the petitioner would depend on the outcome of the proceedings. This Court also fixed a time frame of two months to conclude the enquiry. This order of the Single Judge was unsuccessfully challenged in W.A.No.1087/2016, which was dismissed on 22.06.2016.



4. Pursuant to the order of the Division Bench, the impugned order dated 31.07.2017 has been passed holding that the petitioner was liable to be terminated from service.

5. In the preamble to the order, it is stated as follows :

“ಆದರೆ ಶ್ರೀ ಶ್ರೀನಿವಾಸ ತಂದೆ ಹನುಮಾನಾಯಕ ದಿನಾಂಕ 3.12.2016 ರಂದು ನೀಡಿದ ದಾಖಲೆಗಳನ್ನು ದೃಢೀಕೃತವಿಲ್ಲದೆ ನನಗೆ ಸಲ್ಲಿಸಿರುತ್ತೀರಿ. ಅವು ದಾಖಲಾತಿಗಳು ಸುಮರ್ಪಕವಾಗಿರುವುದಿಲ್ಲವೆಂದು ಸಮರ್ಪಕ ದಾಖಲಾತಿ ನೀಡಿದ್ದಲ್ಲಿ 15 ದಿವಸಗಳಲ್ಲಿ ಉತ್ತರ ನೀಡುತ್ತೇನೆಂದು ವಿನಂತಿಸಿಕೊಂಡರು. ದಿನಾಂಕ : 25.4.2017 ರ ವಿಚಾರಣೆಗೆ ಅಂತಿಮ ಕಾರಣ ಕೇಳಿ ನೋಟಿಸ್ ಜಾರಿ ಮಾಡಲಾಯಿತು. ಶ್ರೀನಿವಾಸ ಹನುಮಾನಾಯಕ ಇವರ ವಿರುದ್ಧ ಇದ್ದ ಆರೋಪಗಳ ಸಂಖ್ಯೆ 11 ಇದರಲ್ಲಿ ಕ್ರಮ ಸಂಖ್ಯೆ 1 ರಿಂದ 6 ರವರೆಗಿನ ದಾಖಲಾತಿಗಳು ಮುಟ್ಟಿರುತ್ತವೆಂದು ಒಪ್ಪಿದ್ದು ಉಳಿದ ದಾಖಲಾತಿಗಳ ಬಗ್ಗೆ ಸೂಕ್ತ ಕ್ರಮ ತೆಗೆದುಕೊಂಡಿದ್ದು ಕಡತಗಳ ಲಭ್ಯತೆ ಸಮೀಪದ ದಿನಗಳಲ್ಲಿ ಸಿಗುವ ಸಾಧ್ಯತೆ ಕಂಡು ಬರುತ್ತಿಲ್ಲ. ಆದ್ದರಿಂದ ಸಂಬಂಧಪಟ್ಟ ಹಾಗೂ ತಮ್ಮ ಸ್ವಂತ ಮಾಹಿತಿ ಮೇರೆಗೆ ತಪ್ಪದೇ ಮುಂದಿನ ದಿನಾಂಕ : 10.5.2017 ರಂದು ಲಭ್ಯ ಇದ್ದ ದಾಖಲೆಗಳ ಅನುಗುಣವಾಗಿ ತಪ್ಪದೆ ಉತ್ತರ ಸಲ್ಲಿಸಲು ತಿಳಿಸಲಾಯಿತು. ಲಿಖಿತ ಉತ್ತರ ಸಲ್ಲಿಸದೆ ಶ್ರೀನಿವಾಸ ಹನುಮಾನಾಯಕ ಇವರು, ಕ್ರಮ ಸಂಖ್ಯೆ : 1 ರಿಂದ 11 ರವರೆಗಿನ ಸಂಬಂಧಪಟ್ಟ ದೃಢೀಕೃತ ನಕಲು ಸಂಪೂರ್ಣವಾಗಿ ನೀಡಿದ ನಂತರ ಇಲಾಖೆ ವಿಚಾರಣೆಗೆ ಸಹಕರಿಸುತ್ತೇನೆಂದು ಟಿಪ್ಪಣಿ ಬರೆದಿರುತ್ತಾರೆ. ಆದಾಗ್ಯೂ ಸದರಿಯವರಿಗೆ ಇಲಾಖೆವತಿಯಿಂದ ನೋಟಿಸು ದಿನಾಂಕ 6.6.2017 ರಂತೆ ದಿನಾಂಕ 27.6.2017 ರವರೆಗೆ ಕಾಲವಕಾಶ



ನೀಡಲಾಗಿತ್ತು ಯಾವುದೇ ರೀತಿಯ ಉತ್ತರ ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ ಇವರ ಮೇಲೆ
ಮಾಡಿದ ಆರೋಪ 1 ರಿಂದ 11 ರವರೆಗಿನ ವಿವರ ಈ ಕೆಳಗಿನಂತೆ.

.. .. .”

6. As could be seen from the above, the petitioner was not furnished with the documents relating to all the eleven charges and he was given documents only in respect of certain charges and it is also noticed in the said order that the probability of securing the documents in relation to the other charges was not feasible in the immediate future and he was called upon to submit his reply in respect of the documents which have already been furnished to him.

7. It is also forthcoming that the petitioner's reply was that unless all the documents are given, he would not be able to give an effective reply. The authorities in the light of this difference have proceeded to consider the allegations against the petitioner in respect of the documents which he had supplied in relation to certain charges. It is therefore clear that an enquiry as such was



not conducted in the sense that the petitioner was not given an opportunity to participate in the enquiry.

8. It is to be noticed here that the petitioner had stated that he would not be able to give his effective defense until all the documents pertaining to all the charges were furnished to him and this would presuppose that until these documents are given, he could not participate in the enquiry.

9. In that view of the matter, since the enquiry as contemplated by the order of this Court has not been conducted, the impugned order will have to be necessarily quashed.

10. The petitioner is directed to be reinstated into service with the position that he was holding as before. Liberty is given to the fourth respondent to hold an enquiry into the allegations that are made by supplying all the necessary documents and thereafter proceed to pass an order in accordance with law.



11. All contentions of either of the parties are left open.

12. Accordingly, the writ petition is ***disposed of***.

Sd/-
(N.S.SANJAY GOWDA)
JUDGE

SN
List No.: 1 SI No.: 16
CT: VD