NC: 2024:KHC-K:10219
WP No. 202231 of 2021

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 202231 OF 2021 (S-RES)

BETWEEN:

1. MADIVALAPPA
   S/O GUNDERAYA HARGI
   AGE 44 YEARS
   OCC JR ASST/LEDGER MAINTENANCE
   O/O ASST EXECUTIVE ENGINEER (ELE)
   O AND M SUB-DIVN. GESCOM
   BASAVA KALYAN-585 327.
   DIST. BIDAR.

...PETITIONER

(BY SRI. NITESH PADIYAL, ADVOCATE)

AND:

Digitally signed by NAGARAJA B M
Location: HIGH COURT OF KARNATAKA

1. GULBARGA ELECTRICITY SUPPLY COMPANY LIMITED
   STATION ROAD, KALABURAGI-585 102
   THROUGH ITS MANAGING DIRECTOR

2. THE SUPERINTENDENT ENGINEER (ELE)
   O AND M, GESCOM
   BIDAR-585 401.

3. THE EXECUTIVE ENGINEER (ELE)
   O AND M GESCOM
   HUMANABAD
   DIST. BIDAR-585 330.

4. THE ASST. EXECUTIVE ENGINEER (ELE)
   O AND M, GESCOM

BASAVA KALYAN
DIST. BIDAR-585 327.

…RESPONDENTS

(BY SRI. SUDARSHAN .M, ADVOCATE FOR R1, R3 AND R4;
R2 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO COMPLY THE DIRECTIONS ISSUED BY THIS HONOURABLE COURT ISSUED IN WP NO. 101460-467/2013 WITH A SPECIFIC TIME LIMIT BY GIVING THE BENEFIT OF GIVING CONTINUITY OF SERVICE AND ALL OTHER CONSEQUENTIAL BENEFITS IN THE INTEREST OF JUSTICE AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

In the captioned petition, petitioner is seeking a mandamus to implement the directions issued by this Court in W.P.No.101460-101467/2013.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for respondent.

3. Petitioner aggrieved by the illegal termination of his service in 2008 raised a dispute and the labour Court

passed an award on 7.9.2012 rejecting the reference. Petitioner aggrieved by the said order of the labour Court approached this Court in W.P.No.101460-101467/2013. Present petitioner was arrayed as petitioner No.4 in the said writ petitions. The Co-Ordinate Bench adverting to the rival contentions observed that petitioner along with other petitioners has rendered long service in respondent/Corporation and therefore, was of the view that the order of the labour Court rejecting the reference was not justified. The Co-ordinate Bench while setting aside the award passed by the labour Court in Reference No.12/2012 held that termination of the petitioners therein on 31.1.2008 is illegal. The Co-Ordinate Bench also held that respondents are bound to reinstate petitioners into service, grant continuity of service and treat them as the regularly appointed workmen of the respondent/Corporation. This Court deems it fit to cull out paras 10 and 11, which reads as under:

> *" 10. Though the learned counsel for the respondents has relied on the order dated 09.04.2015 passed in*

W.P.Nos. 13711-13723/2015, the said decision would not be of assistance to the instant facts. Firstly what is necessary to be noticed is that the petitioners therein had approached the High Court directly when they were aggrieved by a notification which had been issued seeking to fill up about 228 vacant posts of Junior Assistant. In that light the petitioners working therein being threatened of their position were before the Principal Bench of this Court and it is in that circumstance the learned Judge was of the view that the relief sought for in the said petitions is to be rejected. However, in the instant facts as noticed, the petitioners who had rendered long service in the respondent - Corporation were before the Labour Court alleging the illegal termination and were therefore seeking to be reinstated into service and the question of the regularization was incidental thereto. Therefore if these aspects are kept in view the consideration as made by the Labour Court in the instant case is not justified.

11. The award dated 07.09.2012 in Reference No.12/2012 is accordingly set aside. The termination of the petitioners on 31.01.2008 is therefore held to be illegal. The respondents are directed to reinstate the petitioners into service, grant continuity of service and treat them as the regularly appointed workmen of the respondent - Corporation. However, in the facts and circumstances of the case the petitioners would not be entitled to the back wages in monetary terms but the respondents at the point of reinstating the petitioners shall fix the wages by taking the consequential benefits in notional terms and fix the wages equal to that of a

similarly placed employee who has continued in service till the date on which the petitioners are reinstated. The implementation of this order shall be made by the respondents within two months from the date on which a copy of this order is furnished to the respondents.

Petitions stand disposed of accordingly."

4. Noting these significant details, this Court is of the view that there is clear laxness on the part of respondent/Corporation in not implementing the directions issued by this Court. This lack of diligence has caused gross injustice to the petitioner. The Co-Ordinate Bench has clearly directed respondent/Corporation to reinstate the petitioner and consequently, fix the wages by taking consequential benefits in notional terms. Petitioner pursuant to the order passed by this Court, which is confirmed by the Hon'ble Apex Court in SLP.No.26192-26199/2016 has a legal right to seek mandamus at the hands of this Court. Respondent/Corporation having suffered an order at the hands of this Court which is confirmed by the Apex Court is equally obligated to

implement the directives issued by this Court in W.P.No.101460-101467/2013.

5. Since there is clear lack of diligence, this is a fit case to issue mandamus.

6. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The writ petition is allowed.

(ii) The respondent/Corporation is directed to forthwith comply with the directions issued by this Court in W.P.No.101460-101467/2013.

(iii) This exercise shall be accomplished within a period of eight weeks from the date of receipt of certified copy of this order, failing which the matter will be viewed seriously and appropriate contempt proceedings shall be initiated.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB/List No.: 1 Sl No.: 27