HC-KAR

NC: 2026:KHC:60279
WP No. 1427 of 2026

CNR: KAHC010031592026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 1427 OF 2026 (S-RES)

BETWEEN:

1. SRI.RAMANJANEYA NINGAPPA HALLUR
   S/O THE LATE NINGAPPA HALLUR
   AGED ABOUT 65 YEARS

   RETIRED LECTURER IN CIVIL ENGINEERING
   D.V.S.POLYTECHNICAL SHIVAMOGGA

   NOW RESIDING AT C-135, 1ST FLOOR
   BRIGADE SYMPHONY KRS ROAD
   OPP. TO COASTAL GARDEN
   METAGALLI POST
   MYSURU - 570 016

... PETITIONER

(BY SRI. JANARDHANA G., ADVOCATE)

Digitally signed by VIDYA G R
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
   MINISTRY OF HIGHER EDUCATION
   REP. BY ITS SECRETARY
   VIDHANA SOUDHA
   BANGALORE - 560 001

2. THE COMMISSIONER FOR COLLEGIATE
   AND TECHNICAL EDUCATION

GOVERNMENT OF KARNATAKA
SESHADRI ROAD
BENGALURU - 560 001

3. THE DIRECTOR OF TECHNICAL EDUCATION
PALACE ROAD
BENGALURU - 560 001

4. THE SECRETARY
DSHIYA VIDYA SHALE SAMITI (R)
SIR K.V.ROAD
BASAVESHWARA CIRCLE
SHIVAMOGGA - 577 201

5. THE PRINCIPAL
DVS POLYTEHNICAL COLLEGE
SHIVAMOGGA - 577 201

... RESPONDENTS

(BY SMT. ASHVINI PATIL, AGA FOR R1 TO R3;
SRI S.V. PRAKASH, ADVOCATE FOR R4 AND R5)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ACT-7/2014, THE KARNATAKA PRIVATE AIDED EDUCATIONAL INSTITUTIONS EMPLOYEES (REGULATION OF PAY, PENSION AND OTHER BENEFITS) ACT, 2014 VIDE ANNEXURE-F PUBLISHED IN KARNATAKA GAZETTE EXTRAORDINARY NO.243 DATED 27.3.2014 AND ALSO ACT-4 / 2015 CALLED KARNATAKA EDUCATION (AMENDMENT) ACT, 2014 UNDER ANNEXURE-F1 PUBLISHED IN KARNATAKA GAZETTE EXTRAORDINARY NO.31 DATED 9.1.2015 AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

CNR: KAHC010031592026

ORAL ORDER

The petitioner who had joined the service with respondent No.5 - D.V.S. Polytechnical College as Lecturer in Civil Engineering has called in question the validity of Act-7 of 2014, viz., Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and Other Benefits) Act, 2014 [Annexure-'F'] as also Act-4 of 2015, viz., Karnataka Education (Amendment) Act, 2014 [Annexure-F1]. The petitioner has also challenged the order at Annexure-'E' dated 24.05.2024, whereby the respondent Authority has ordered that the petitioner's post would be admitted to grant-in-aid with effect from 03.08.2017, while rejecting the request of the petitioner that the date for approval of grant-in-aid must be as on 29.01.2011. The petitioner has further sought for a direction for extension of benefits in terms of the order passed in W.P.No.21216/2014 and connected petitions.

2. It is the case made out by the petitioner that while admitting the posts to grant-in-aid to respondent No.5 - College in light of the petitioner having faced disciplinary proceedings, the name of the petitioner was left out, while approval for grant-in-aid to the other posts of other staff of the same Institution was granted on 29.01.2011.

3. It is further made out that the disciplinary proceedings against the petitioner were dropped. Subsequently, the petitioner had sought for extension of grant-in-aid insofar as his case is concerned from the same date, i.e., 29.01.2011. The petitioner submits that he had approached this Court in W.P.No.33139/2018 seeking extension of grant-in-aid for the petitioner with effect from 29.01.2011 instead of 03.08.2017. The said writ petition was called along with W.P.No.23266/2018 and disposed of by a common order dated 06.07.2021.

The relevant observations in the said decision from para-11 onwards are extracted as hereinbelow:-

> *"11. I have given my anxious consideration to the respective submissions made by the learned counsel and perused the material on record.*
>
> > *11.1. In furtherance thereof, the only issue that falls for my consideration is whether the petitioners are entitled to come within the ambit of grant from the date on which all other staff members in the Institute were brought under grant-in-aid by the State on 29.01.2011.*
>
> *12. It is not in dispute when the staffing pattern was sent for its approval to be brought under the grant-in-aid disciplinary proceedings were pending against the petitioner and they were placed under suspension. It is also not in dispute that the allegations against the petitioners were found to be baseless and they were not held guilty by the Enquiry Officer, which the competent authority accepted and closed the issue. Therefore, the petitioners came out blemishless in the enquiry, which would clearly mean that there was no proceeding in law against them at the time when the initial proposal was sent for grant-in-aid.*

13. The re-proposal sent on 2014 was approved on 03.08.2017 by the Government prospectively and not retrospectively. This in my considered view is erroneous on the part of the State as the petitioners having been exonerated of the allegations and the same being accepted by the Government, could not have brought the petitioners under the ambit of grants with a prospective date. The petitioners were entitled to be brought within the ambit of grants from the date on which the other staff members, who are working with the petitioners were brought under the grant-in-aid on 29.01.2011.

14. For the aforesaid reasons, the following:

ORDER

i. The writ petition is allowed.

ii. The mandamus is issued to the State to reconsider the cases of the petitioners for bringing them under the ambit of grants from the date on which all other staff of respondent No.4 - Institute were brought under the grant-in-aid on 29.01.2011 and pass appropriate orders in accordance with law within 3 months from the date of receipt of a copy of this order.

iii. The petitioners shall be entitled to consequential benefits that would flow from the aforesaid direction and the order that would be passed by the State."

4. It is thus clear that the Co-ordinate Bench had unequivocally observed that the case of the petitioner for bringing the posts under the ambit of grant-in-aid must be considered from 29.01.2011 and appropriate orders were required to be passed within a period of three months. Subsequent to such order, the respondent Authorities have passed the impugned order at Annexure-'E' dated 24.05.2024.

5. A perusal of the order at Annexure-'E' dated 24.05.2024 would reveal that the case of the petitioner for admitting the post to grant-in-aid from 03.08.2017 has been passed, while rejecting the contention that approval needs to be dated back from 29.01.2011. Secondly, it is observed in the impugned order that it was not possible to consider their service from the date of actual appointment in the pre-grant period, as approval for the post was made only on 03.08.2017. The said order has been assailed contending that the order at Annexure-'E' was in violation

of the direction of Co-ordinate Bench passed in W.P.No.33139/2018.

6. It is further contended that insofar as the calculation of service benefits which was rejected stating that the service rendered prior to the date of approval of the post for grant-in-aid cannot be considered requires to be re-looked into, in light of the observations made by the Division Bench in W.A. No.2476/2015 c/w R.P.No.415/2021 decided on 24.07.2026.

7. Learned Additional Government Advocate appearing on behalf of respondent State would contend that the case of the petitioner for approval and admitting his post to grant-in-aid cannot be considered retrospectively and can be done only after his exoneration in the disciplinary proceedings and accordingly, the impugned order has rightly taken note of the aspect of 03.08.2017 as the relevant date.

8. It is further contended by learned Additional Government Advocate that the *lis* before the Court in W.P.No.33139/2018 was in the context of challenge to the order of suspension.

9. It is further submitted that despite exoneration of petitioner from the disciplinary proceedings, there could be no retrospective approval of admitting the post to grant-in-aid from 29.01.2011, as law would not provide such extension.

10. It is also submitted that the observations of the Co-ordinate Bench in the aforesaid W.P.No.33139/2018 should be construed to be to consider the case of the petitioner as per law, and if law did not provide dating back approval for grant-in-aid post from 29.01.2011, the only logical consequence would be to admit the post to grant-in-aid from 03.08.2017.

11. Perused the order of the Co-ordinate Bench passed in W.P.No.23266/2018 c/w W.P.No.33139/2018 dated 06.07.2021. The observations at para-11 onwards which are extracted hereinabove would make it clear that the Co-ordinate Bench has specifically considered the issue whether the petitioner was entitled to come within the ambit of grant-in-aid from the date on which all other staff members in the Institution were brought under the grant-in-aid by the State on 29.01.2011.

12. The learned Single Judge has observed that, as the allegations against the petitioner were found to be baseless and enquiry proceedings closed, in effect, it could be construed that there was no proceeding in law against the petitioner at the time when the initial proposal was sent for grant-in-aid. While observing so, the learned Single Judge has emphatically observed that, "*petitioners are entitled to come within the ambit of grant from the*

date on which all other staff members in the Institute were brought under grant-in-aid by the State on 29.01.2011."

13. Clearly, where the obstacle that prevented the petitioner's post from being admitted to grant-in-aid was removed, the petitioner was held to be entitled to be admitted to grant-in-aid as on the date of his colleagues, whose posts were admitted to grant-in-aid on 29.01.2011 on the principle of parity. If that were to be so, the respondent State not having challenged the order in the aforesaid writ petition, copy of the order produced at Annexure-'C', it was not open for the respondent to hold otherwise to the effect that approval is to be taken from 03.08.2017.

14. Insofar as other observation relating to pre-grant service which has been held in the negative, in light of the observations made in W.A. No.2476/2015 c/w R.P.No.415/2021 that portion of Annexure-'E' is also required to be set aside. The observations made in

para-61 in W.A.No.2476/2015 c/w R.P.No.415/2021 reads as follows:-

> *"61. It is also necessary to clarify the extent of the relief that would flow from the present judgment. The issue involved in the present batch of matters is confined to whether the service rendered by employees during the non-grant period is liable to be reckoned for the purpose of fixation of pay and other consequential service benefits. Neither the provisions governing grant-in-aid nor the statutory framework casts any liability upon the State to pay salary for the period prior to admission of the post to grant-in-aid. As produced supra, Annexure-I of Rules, 1999 would make it abundantly clear that the management shall be liable for payment of salary and other benefits till the date such posts are admitted into grantin-aid. The liability to pay salary during the non-grant period continues to rest upon the management of the concerned institution. Consequently, the service rendered during the said period shall be taken into account only for the purpose of notional fixation of pay as on the date of admission of the post to grant-in-aid and for extending consequential benefits such as pension and other service benefits. The employees shall not be entitled to claim arrears of salary or any other monetary benefits from the State for the period preceding the admission of the post to grant-in-aid.*

15. Accordingly, the impugned order at Annexure-'E' to that extent requires to be set aside is accordingly set aside. The respondent Authorities are

directed to extend grant-in-aid to the post of petitioner with effect from 29.01.2011 in terms of the observations made in the order dated 06.07.2021 passed in W.P.No.23266/2018 c/w W.P.No.33139/2018.

16. Insofar as the request of petitioner to take service prior to grant-in-aid for the purpose of pension and other benefits, in light of the observations at para-61 in W.A.No.2476/2015 c/w R.P.No.415/2021, the respondent Nos.2 and 3 are directed to reckon the service of petitioner from the date of appointment i.e., appointment pre grant-in-aid for the purpose of notional fixation of pay in order to calculate benefits such as pension and other service benefits such consideration to be completed within a period of six months.

17. Accordingly, the respondent Authorities are directed to take note of the observations and pass appropriate office orders within a period not later than six months.

Accordingly petition is ***disposed of***.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VGR