WP No. 2451 of 2021

R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO.2451 OF 2021 (S-KSAT)

BETWEEN:

THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY TO THE GOVERNMENT,
FINANCE DEPARTMENT, VIKASA SOUDHA,
BENGALURU-01.

...PETITIONER

(BY SRI. S.C. DESHMUKH, AGA)

AND:

1. MANJUNATH K.,
   S/O LATE GANGAIAH
   AGED 37 YEARS,
   R/AT NO. KALLI PALYA,
   DODAMASKAL POST, GULOOR HOBLI,
   TUMKUR TALUK AND
   DISTRICT PIN-572 122.

2. THE KARNATAKA PUBLIC
   SERVICE COMMISSION
   REPRESENTED BY ITS SECRETARY,
   UDYOG SOUDHA,
   BANGALORE-01.

...RESPONDENTS

(BY SRI.MANOHAR B.K., ADVOCATE FOR R1;

SRI. SIDDARTH BABURAO, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE,

Digitally signed by AASEEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASHING THE ORDER DATED 01.08.2018 PASSED IN APPLICATION NO.325/2011 BY THE KSAT, BANGALORE IN ANNEXURE - A TO THE WRIT PETITION.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON *14.10.2026* COMING ON THIS DAY, ***DR. CHILLAKUR SUMALATHA J.,*** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

CAV ORDER

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

Assailing with the order that is rendered by the Karnataka State Administrative Tribunal at Bengaluru in Application No.325/2011 dated 01.08.2018, State filed this writ petition seeking this Court to issue a Writ of Certiorari and to quash the impugned order.

2. Heard Sri.S.C.Deshmukh, learned AGA who represents the Petitioner, Sri.Manohar.B.K, learned counsel for respondent No.1 and Sri.Siddarth Baburao, learned counsel for respondent No.2. Also gone through the contents of the affidavit given by the Deputy Director, Department of School Education, Madhugiri.

3. The cause of action for knocking the doors of Karnataka State Administrative Tribunal as per the version of respondent No.1 (hereinafter be referred to as the applicant) is that, through Notification No.E(3) 831/2009-10/PSC dated 04.08.2008, respondent No.2-Karnataka Public Service Commission called for applications for filling up the posts of Excise Guards (Male). The applicant responded to that Notification and applied for the said post under SC (Kannada) category. Thereafter, he appeared for competitive examination and succeeded. Since he was found to be suitable for the said post, respondent No.2 issued a letter dated 06.10.2010 directing him to produce the originals of required documents. Accordingly, he produced SSLC Certificate, Transfer Certificate and

Cumulative Record. The applicant was born on 15.06.1982. His date of birth is clearly mentioned in the Transfer Certificate and Cumulative Record. However, due to typographical error, his date of birth was wrongly mentioned as 15.06.1980 instead of 15.06.1982 in SSLC Certificate. Noticing the same, the concerned officials directed the applicant to produce SSLC Certificate getting his date of birth corrected within two days to consider his candidature. On that, the applicant requested the concerned authorities to issue SSLC Certificate correcting his date of birth. The Deputy Director of Madhugiri Taluk looked into the matter and addressed a letter dated 15.10.2010 to the Secretary, Karnataka Secondary Education Examination Board, Bengaluru stating that the date of birth in SSLC Certificate is wrongly mentioned as 15.06.1980 and thus, necessary correction is required to be made. The applicant also submitted a representation to respondent No.2 to consider his grievance and to select and appoint him to the post he applied. However, respondent No.2 published the provisional selection list

without considering the request of the applicant. Though the applicant secured 231 marks, the name of the candidate who secured lesser marks i.e. 228 was shown as selected in the provisional selection list. The applicant also filed a suit for declaration and correction of his date of birth. In the meantime, respondent No.2 published the final selection list also. While the thing stood thus, concerned authorities corrected the date of birth in the SSLC marks certificate of the applicant and have shown his correct date of birth as 15.06.1982.

4. With aforementioned version, the applicant filed an application before the Karnataka State Administrative Tribunal, Bengaluru, seeking the Tribunal to quash the final selection list and to include his name. The Tribunal allowed the application and issued following directions to the Government:

> *"In the light of completion of selection process, mandamus can not be issued to the KPSC. On the other hand a direction need to be issued to the Government, ie., the 2nd respondent, to appoint the applicant as Excise Guard, if he is otherwise suitable, against a direct recruitment vacancy or by creating*

> *supernumerary post, as the case may be, within two months from the date of receipt of a copy of this order.*
>
> *It is made clear that the appointment of the applicant will be prospective from the date of issue of appointment order."*

Aggrieved by the aforesaid directions, State filed this writ petition.

5. Making his submission on the merits of the matter, learned AGA contended that onus vests upon the applicant to produce all relevant documents which in turn establishes that he holds required qualification for appointment to the post he sought for. The applicant produced his SSLC Marks Card at the time of verification of certificates which reveals that he is barred by age. The applicant took a plea that his date of birth is wrongly mentioned in the SSLC Marks Card. On that, time was granted to get the typographical error in respect of date of birth corrected and to produce the corrected SSLC Marks Card. However, the applicant could not produce the corrected SSLC Marks Card within time. Therefore,

provisional and final selection lists were published and thus, there is no illegality in publishing those lists.

6. Learned AGA further submitted that the Tribunal allowed the application with an observation that the typographical error has been corrected by virtue of the judgment by a competent Civil Court. However, O.S. No.89/2011 filed by the applicant before the Court of Civil Judge, Tumkur for declaration and correction of his date of birth was not pressed by him. Further more, once the entire process of selection is completed, no candidate can be permitted to enter into service and thus, the Tribunal exceeded its power.

7. On the aspect of delay, learned AGA submitted that the impugned order was passed in the year 2018, but the writ petition was filed in the year 2021 and the delay in challenging the order passed by the Tribunal is due to lockdown imposed during COVID period and the time taken for internal correspondence between different levels of officials. Learned AGA thereby ultimately sought to

allow the writ petition and to quash the impugned order passed by the Tribunal.

8. Learned counsel for respondent No.2-Karnataka Public Service Commission, endorsed the submission made by learned AGA.

9. Vehemently opposing the submission made by learned AGA, learned counsel for respondent No.1 submitted that the applicant is a person who has come from a very rural background. He belongs to Scheduled Caste. His parents are uneducated. He lost his father at his very young age. By doing coolie work, his mother brought him up and got him educated in a Government high school. The applicant, a young boy between 17 and 18 years as on the date of completion of 10th standard i.e. SSLC, on receiving the marks memo, had gone through the marks he obtained. He never expected that his date of birth will be wrongly mentioned by the concerned authorities. Only when the certificates were verified by the officials of respondent No.2 for selection to the post of Excise Guard, he could notice that there was typographical

error in SSLC Marks Card with regard to his date of birth. The date of birth of the applicant is 15.06.1982. In SSLC Marks Card it was mentioned as 15.06.1980. Thus, in the year instead of "1982", "1980" is mentioned. On that, the applicant immediately took steps, made representation to all concerned authorities to correct the typographical error and he even filed a suit for declaration and correction of his date of birth. In the meantime, the officials in the Education Department realized their mistake and they corrected the date of birth in SSLC Certificate and issued the corrected SSLC Certificate. On that, the applicant informed his advocate that the required correction was made by the competent authority. His counsel informed the Court and as the cause thus did not survive, the suit was not pressed. The applicant again approached respondent No.2 to consider his case and to give appointment, but there was no response. Hence, the applicant filed an application before the Karnataka State Administrative Tribunal seeking necessary relief. As his case was found to be genuine, Tribunal directed the State

to consider his case and to give appointment. Learned counsel also stated that had the concerned authorities were vigilant and had the SSLC Certificate contained correct date of birth, the applicant could have secured job. Learned counsel further submitted that to ascertain the date of birth, respondent No.2-Karnataka Public Service Commission directed the applicants who succeeded in the competitive examination to produce SSLC or equivalent marks card or transfer certificate or extract of cumulative record. The applicant produced his transfer certificate as well as the cumulative record which revealed the correct date of birth. But those documents were not taken into consideration which is illegal and unjustifiable. Learned counsel stated that, error thus is committed both by the petitioner-State as well as respondent No.2-Karnataka Public Service Commission, and therefore, the writ petition is liable to be dismissed.

10. Having heard the submission made by learned counsel representing respective parties and upon giving

anxious consideration to the material brought on record, the point that emerges for consideration is:

> ***Whether there exists any infirmity in the impugned order which is passed by the Karnataka State Administrative Tribunal either in appreciating the facts of the case or in applying the established principles of law to the said facts, which in turn requires interference of this Court exercising writ jurisdiction?***

11. The undisputed facts of the case are as under:

(i) Karnataka Public Service Commission issued Notification No.E(3) 831/2009-10/PSC dated 04.08.2008 and called for applications for filling up the posts of Excise Guards (Male).

(ii) The applicant applied to the post under SC (Kannada) Category.

(iii) The applicant was permitted to appear for competitive examination and accordingly he appeared.

(iv) The applicant was successful in the said examination and therefore, respondent No.2 issued a letter dated 06.10.2010 directing the applicant to produce the required documents for verification. The applicant accordingly produced the relevant documents.

(v) The verifying authority having found that the date of birth of the applicant in SSLC Certificate is shown as 15.06.1980, whereas in the Transfer Certificate produced by him it is shown as 15.06.1982, gave a week time to get

the SSLC Certificate rectified with regard to his date of birth.

(vi) The applicant failed to produce the corrected SSLC Certificate within the time granted.

(vii) The applicant gave representation to all concerned authorities with regard to the typographical error in the SSLC Certificate, and sought for its correction.

(viii) The applicant also filed a suit in OS No.89/2011 before the Court of II Additional Civil Judge, Tumkur.

(ix) In the meantime, concerned authority corrected the date of birth and issued corrected SSLC certificate.

(x) The applicant not pressed the suit filed by him.

12. State is before this Court only on the ground that correction of date of birth is a major correction which has to be done through a decree of competent Court, but as the same was done without such decree, such correction is invalid and as the Tribunal rendered orders with an observation that the correction was made basing on the decree of the Court and as such correction is not based on the decree of the Court, the order of the Tribunal is required to be set aside.

13. For effective discussion and to have a holistic approach to the *lis* taken up for consideration, the relevant Circulars governing the field are required to be looked into. The first Circular that was relied upon by the State and is the one issued by Office of the Commissioner, Department of Public Instruction, Bengaluru in Circular No.C1 Aa5 (8) Sha.Shi.Jati: 23:89-90 dated 02.05.2000 regarding change of student's name, father's name, adopted father's name, caste, date of birth etc. in the student's school records. The relevant point in the said Circular i.e. point No.4 reads as under:

> *"4. After SSLC, if candidates seek changes-or corrections in father's name, caste, date of birth, or candidates name (excluding minor typographical errors in the details recorded as per school records), power is hereby conferred to all Deputy Directors of Public Instruction to permit corrections only if the candidates produce a decree obtained from a court of law."*

14. Next circular is the one which is issued by Government of Karnataka vide Circular No.ED 32 DTB 2008 dated 20.08.2009 regarding implementation of Court Decree/Orders issued about correction of student's

name/parent's name, caste, date of birth, etc. in school records. In the said Circular, the procedure of insisting Court decrees as per Circular dated 02.05.2000 is relaxed to some extent and for minor corrections regarding the student's date of birth and father's surname/family name alongside a student's name, when the cases are identical to the examples given in the said Circular, directions were issued not to insist for Court Decrees. Moving forward, Government of Karnataka through Circular No.ED 100 DTB 2014 dated 26.10.2015 cancelled the earlier Circulars. In that Circular it is mentioned that instructions were issued to the Headmasters of respective schools to ensure that student names, parents' name and date of birth are filled out carefully in the OMR sheet strictly as per School Admission Register without scope for errors. It is also mentioned that in case of errors, the respective school headmasters will be held responsible. Circular instructions 3, 5 and 6 are very relevant and therefore they are extracted as under:

> *"3. If there are spelling errors, initial corrections, or date of birth corrections in the*

student's/ parents name in the SSLC marks card, the concerned Block Education Officer shall directly verify the original school admission register and submit a proposal directly to the Karnataka Secondary Education Examination Board for necessary action.

4. xxx xxx xxx.

5. For students studying from Class 1 to SSLC, if there are spelling errors in their names, or if additions of father's name, surname, or alias are required, or to correct mistakes made while entering details in school records despite valid supporting documents for date of birth being available, a self-affidavit must be obtained from the student's parents based on the Ration Card or Aadhaar Card. It must be explicitly stated in the affidavit that if the information provided is found to be false, it shall be punishable under the Indian Penal Code.On this basis, without violating school admission rules, the respective Block Education Officer shall take action to effect corrections on June 1st of the relevant year. While taking such action, as per Rule 11(1) of the Karnataka Education Act 1983, a child must have completed at least 5 years of age to be admitted to school. Therefore, this age limit must be kept in mind while correcting dates of birth. If the corrected date of birth results in an age lower than the mandatory minimum age, it is necessary to produce a court decree from a competent court.

6. For candidates after SSLC, if corrections are required in student name, surname, parents' name, date of birth, etc., in school records/marks cards, in cases where court decrees have been obtained, the District Deputy Director shall examine the proposal as per school admission rules upon receiving the decree and issue appropriate correction orders within 15 days of receipt."

15. No doubt, in the case on hand, necessary correction was effected in the year 2010 itself. Therefore, the Circular dated 26.10.2015 referred above does not have any bearing. However, this Circular is referred only to demonstrate that the Government having considered the irreparable loss being caused to the students due to errors committed by the Headmasters or concerned authorities of the schools in mentioning the names of the students, their parents' names and date of birth, relaxed the stringent rule of insisting production of Court Decrees/Orders in every case.

16. It is not the case of the petitioner-State that the applicant, to gain employment has projected an incorrect date of birth. The State is before this Court holding that correction in the date of birth should be done basing on a Decree of a Competent Court, but it was done without such Decree. A common man i.e. the applicant herein had a sense to approach the Competent Court of Law and obtain a Decree for correction of the date of birth. On the other hand, a responsible official of the State

Authority had no such knowledge that such correction should not be done without a Decree of the Competent Court. He, basing on the report submitted to him, carried out the correction and issued the corrected SSLC Certificate during the pendency of the suit. By such action of the State Official, the suit filed by the applicant has become infructuous. When the cause does not survive, the Competent Court cannot pass any Decree. Therefore, the act of the State has closed the doors of the applicant to get the relief by following due procedure. Now without taking any action against the official who erred, the State has come before this Court stating that the correction was done without the Decree of the Court. It is not the case that the applicant himself corrected the certificate. The SSLC Certificate was corrected by the official of the State that too during the pendency of the suit. The suit for declaration and correction of date of birth as per the material available on record was presented on 20.01.2011. The Official of the State Authority, corrected the date of birth in SSLC Marks Memo on 23.03.2011. The suit

therefore was not pressed on 21.04.2011. Thus, under no stretch of imagination, it can be held that the applicant was at fault and therefore, he should be penalised by denying employment.

17. Admittedly, one cannot approbate and reprobate. The State cannot take advantage of its own wrong and deny an individual his legitimate right.

18. Students, their parents or guardians will have no control over the maintenance of different registers by school authorities, the entries they make, the information they furnish to higher authorities which ultimately reflect in the Certificates whether it is in respect of Name, Surname, Parents/Guardians name, Date of Birth, Caste etc., nor are they responsible for the mistakes committed by officials entrusted with those public duties.

19. A welfare State has a greater obligation to protect the interest of subjects. It must set an example of fairness in action, responsibility in deeds and accountability in functioning. Courts cannot permit

administrative lapses of State defeat the legitimate rights of Citizens.

20. In the case on hand, State has not only became an author of injustice, but took shelter under the very same circumstances to deny the lawful entitlement of an innocent, his plate of meal. An un-employee cannot be asked to pay the price of administrative negligence. An aspirant of public employment who met all required criteria and fulfilled all prescribed requirements should not be deprived of an opportunity merely because of a mistake of one official and improper exercise of authority by another official. Fair, transparent and responsible administrative system is the need of the hour and wish of VIKSIT BHARAT.

21. Further more, as rightly submitted by learned counsel for the applicant, the applicant ought to have been considered by respondent No.2-Karnataka Public Service Commission for his appointment. Respondent No.2-Karnataka Public Service Commission through Notice No. E(3)1010-1538/2010-11/PSC dated 06.10.2010 directed

the petitioner to produce the original documents for verification. Said notice (translated copy)reads as under:

"To

Manjunatha K (24)
Manjunatha K, S/O. Late Gangaiah Kallipalya
Doddamaskal Post, Gulur Hobli,
Tumkur Taluk. Tumkur Dist.
PIN-572122.

In accordance with the details mentioned in your application in respect of the competitive examination for the post of Excise Guard in Excise Department held on 13/12/2009, for verification of your original records, intimated to present on 25/10/2010 at 10.00 am at Karnataka Public Service Commission, Udyoga Soudha, Bangalore-01

Only on receipt of this notice, you should not considered that you have selected for the post. Your selection is subject to the verification of the qualification, date of birth and reservation certificate mentioned in On - Line application

The original documents to be produced:

1) Marks card of S.S.L.C or equivalent qualification

2) S.S.L.C or equivalent qualification marks card/transfer certificate/Extract of Cummulative Record for date of birth proof.

3) Caste Certificate:
   a) Schedule Caste/Schedule Tribe candidates Form D
   b) Category-I candidates Form E
   c) Category 2A, 2B, 3A, 3B candidates Form F

The above certificate should have been obtained as on 09.09.2009 the last date for submission of application, obtained from the Tahsildar. The reservation certificates obtained after 09.09.2009 will not be considered.

4) Ex-Servicemen:
   a) The candidates requesting for reservation should produce the relieving letter.

   b) If any person served as soldier or non Soldier cadre in navy, airforce if deceased Or injured

		while in service, their Dependent family members should obtain The certificate in this regard.
5)	Rural Reservation:	Regarding the study in rural area from 1 to 10th standard should obtain certificate in Form 2 from the Head Master and get signed from the block Development officer and the candidates seeking rural reservation under the general category should submit the certificate for not coming under Creamy Layer in Form No.1 as on 09.09.2009.
6)	Kannada medium Reservation	The candidates who have studied in Kannada medium from 1 to 10th Std Should obtain the certificated from the Head Master of the school.
7)	Project homeless Reservation	Should obtain certificate from the Tahsildar in Form 3.

8) The candidates who are already in Gov, service should obtain NOC from the recruitment authority and produce the same. It should consists of date of appointment and period or service.

Conditions

1) Should produce the self attested copies in duplicate along with the original of the above certificates.

2) The candidates should bring all the original certificates of reservation mentioned in online application.

3) The reservation certificate will be considered only if the candidates already requested reservation in online application.

4) Travel Allowance, Dearness allowance will not paid.

5) The candidate who are absent for verification of the original documents, another chance will not be provided and they will be dropped from the selection process.

6) If any of the candidate not intends to select for the said post, should inform the same in writing to the commission.

7) The candidates who are requesting for various reservation should submit the certificate only in the valid format, failing which their reservation will be rejected.

Sd/-
(L.S.Kukken)
Assistant Secretary
Karnataka Public Service Commission"

22. Thus, for proof of date of birth, respondent No.2- Karnataka Public Service Commission through the aforementioned notice directed petitioner to produce SSLC or equivalent qualification marks card or transfer certificate or extract of cumulative record. There is no denial of the fact that the petitioner produced his transfer certificate as well as extract of cumulative record in proof of his date of birth and both said documents i.e. a transfer certificate and extract of cumulative record goes to show that his date of birth is 15.06.1982. Therefore, when the Karnataka Public Service Commission has given an option to the applicant either to produce his SSLC or equivalent

qualification Marks Card or Transfer Certificate or Extract of Cumulative Record, it should not have based its reliance solely upon SSLC Certificate to form an opinion in respect of date of birth. If the version of respondent No.2-Karnataka Public Service Commission is that only contents of SSLC Marks memo will be considered to ascertain the date of birth, the case could have been otherwise. However, it gave an option to the candidates to produce any one of the given documents for proof of date of birth. Therefore, even on this count, neither the petitioner nor respondent No.2 should contend that the applicant is at fault in not producing the corrected SSLC marks memo within the given time so as to consider his candidature.

23. Surprisingly, it is not even the case of petitioner-State that the date of birth mentioned originally is the correct one and thereby the correction effected is improper or without basis.

24. Now coming to the last point that is in respect of delay, the application was disposed of by the Karnataka State Administrative Tribunal, Bengaluru on 01.08.2018.

Admittedly, by that date the pandemic due to COVID was not there. Lockdown started in the month of March 2020 only. Thus, before the outbreak of pandemic, more than a year was available for the State to approach this Court vindicating its grievance. But it did not do so. This Writ Petition was filed in the month of February 2021, if we could say so, very leisurely. For State, this issue may be one among thousands or lakhs. However, for an un-employee, to earn bread and butter, every day is a challenge. Therefore, the State cannot take shelter under the umbrella of pandemic and seek to condone the inordinate delay. Thus, on every count the State fails. Therefore, in the peculiar facts of the present case we decline to interfere with the impugned order passed by the Tribunal. Accordingly, question raised is answered in the negative.

25. Resultantly, the following:

ORDER

Writ petition is *dismissed*.

Time for 8 weeks is granted to the State to comply with the order of the Tribunal.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NS
CT:TSM