HC-KAR
NC: 2026:KHC:61009-DB
WP No. 3484 of 2025
CNR: KAHC010079182025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO. 3484 OF 2025 (S)

BETWEEN:

SRI. M. THIPPE SWAMY,
S/O C. MURTHAPPA,
AGED 50 YEARS,
JUNIOR LABORATORY,
TECHNICAL OFFICER,
PRIMARY HEALTH CENTER
GULIGENAHALLI,
SIRA TALUK,
TUMKUR DISTIRCT- 572137.

...PETITIONER

(BY SRI. MADHUKAR NADIG, ADVOCATE)

Digitally signed by AASEEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
   REP. BY ITS PRINCIPAL SECRETARY,
   DEPARTMENT OF HEALTH AND
   FAMILY WELFARE SERVICES,
   VIKASA SOUDHA,
   BENGALURU - 560 001.

2. THE COMMISSIONER,
   DEPARTMENT OF HEALTH AND FAMILY WELFARE

SERVICES, AROGYA SOUDHA,
MAGADI ROAD,
BENGALURU - 560 009.

3. THE DIRECTOR,
DIRECTORATE OF HEALTH
AND FAMILY WELFARE SERVICES,
AROGYA SOUDHA, MAGADI ROAD,
BENGALURU - 560 023.

…RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1 TO R3)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED FINAL ORDER DATED 26.02.2024 PASSED BY THE HONBLE KARNATAKA ADMINISTRATIVE TRIBUNAL, BENGALURU ON THE APPLICATION NUMBERS 740, 743 AND 744/2024, IN THE INTEREST OF JUSTICE AND EQUITY (ANNEXURE-A)

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

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

ORAL ORDER

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

The petitioner, unsuccessful applicant before the Karnataka State Administrative Tribunal at Bengaluru, for short ('the Tribunal') is before this Court aggrieved by the order dated 26.02.2024 in Application Nos.740, 743 and 744/2024, whereunder the petitioner's prayer for a direction to consider the representations dated 06.07.2023 and 20.11.2023 (Annexures-A5 and A6) and to grant consequential benefits which were granted to the similarly situated officials, is rejected.

2. Learned counsel for the petitioner would submit that the petitioner was appointed as Lab Assistant on contract basis in the District Tuberculosis Control Programme by O.M. dated 06.08.2002 of the Deputy Commissioner, Chithradurga District. It is submitted that the State Government under the Karnataka Civil Services (Absorption of Contract Para-medical Staff and Drivers

appointed in the Directorate of Health and Family Welfare Services (Special) Rules 2006, for short "Rules, 2006" absorbed the contract para-medical staff and drivers. It is submitted that the said absorption Notification was issued on 16.03.2006 and as many as more than 1000 such para-medical staff and drivers were absorbed into the services of the Health and Family Welfare Services. Learned counsel would submit that, at that point of time, due to administrative mistake, the name of the petitioner was not included in the list of absorbed employees. However, in that regard, he approached the Tribunal in Application No.2009/2017 and the Tribunal by order dated 11.12.2019 directed the respondents authorities to consider the case of the petitioner for absorption as Junior Medical Lab Technologist. In pursuance to the said direction, the State is said to have regularized the services of the petitioner by Notification dated 16.03.2021. Thereafter, the petitioner was called for counselling and he was given posting under O.M. dated 20.03.2021

(Annexure-A3). Learned counsel for the petitioner would submit that thereafter, the petitioner made representation to the respondents to consider his absorption from the date similarly situated persons were absorbed under Notification dated 16.03.2006 and to grant all consequential benefits. Learned counsel would submit that the petitioner would be entitled for absorption in terms of Notification dated 16.03.2006, since similarly situated Lab Technicians were absorbed into Government service. For the mistake committed by the authorities, the petitioner cannot be punished. Further, learned counsel would submit that the persons at Sl.Nos.325 to 328 are also similarly situated appointees to Revised Tuberculosis Control Programme and they were regularized under Notification dated 16.03.2006. Thus, learned counsel would pray for allowing the writ petition.

3. Per contra, learned AGA Sri.Vikas Rojipura for respondents would submit that the petitioner was not appointed on contract basis in the Department of Health

and Family Welfare Services, but he was appointed to work in a Scheme i.e. Revised Tuberculosis Control Programme. Therefore, he submits that the petitioner's services were initially not regularized along with other departmental persons. Learned counsel would submit that however, in pursuance to the order of the Tribunal, the petitioner was absorbed under Notification dated 16.03.2021 and from the said date all benefits have been extended to the petitioner. Thus, he would submit that the petitioner would not be entitled for absorption retrospectively from 16.03.2006 and he would pray for dismissal of the writ petition.

4. Having heard the learned counsels for the parties and on perusal of the entire writ petition papers, we are not inclined to interfere with the order passed by the Tribunal. The petitioner had sought mandamus for consideration of representation, wherein he had sought for retrospective absorption and consequential benefits. A

mandamus could be issued only where the person approaching the Court establishes his legal right and where he establishes that the authorities have failed to perform their legal obligation. In the instant case, the petitioner is appointed initially on contract basis as Junior Lab Technician by the Deputy Commissioner, Chithradurga District to District Tuberculosis Control Programme and the petitioner was not a contract employee in the Department of Health and Family Welfare Services. Under Rule 2006 provision was made for absorption of contract para-medical staff and drivers appointed in the Directorate of Health and Family Welfare Services, whereas the petitioner was not on contract appointee of the Directorate of Health and Family Welfare Services. However, when the petitioner approached the Tribunal in Application No.2009/2017, the Tribunal directed consideration of the petitioner's case for absorption. In pursuance to the said direction, the authorities have absorbed the services of the petitioner

under Notification dated 16.03.2021 and have extended all the benefits which the petitioner was entitled to. The petitioner has no legal right to seek retrospective absorption from 2006 i.e. under Notification dated 16.03.2006, since he was not an employee on contract under the Directorate of Health and Family Welfare Services. Therefore, we do not find any error or illegality in the order passed by the Tribunal.

Accordingly, writ petition stands rejected.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

AP
CT:TSM
List No.: 1 Sl No.: 17