HC-KAR

NC: 2026:KHC:59771
WP No. 15207 of 2026

CNR: KAHC010321462026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 15207 OF 2026 (S-RES)

BETWEEN:

1. SHRUTI PATIL
   W/O.KASHINATHA,
   AGED ABOUT 30 YEARS,
   PRESENTLY WORKING AT,
   GOVERNMENT PRIMARY SCHOOL,
   ALUR VILLAGE,
   VIJAYAPURA DISTRICT-586 129
   RESIDENTIAL ADDRESSES,
   SHIVAPURA VILLAGE,
   NANDARGI POST, INDI TALUK,
   VIJAYAPURA DISTRICT-586 112

2. SUSHILKUMAR KAMBAR,
   S/O.MALLAPPA,
   AGED ABOUT 35 YEARS,
   PRESENTLY WORKING AT,
   GOVERNMENT KANNADA HIGHER
   PRIMARY AND UPGRADED
   RMSA SECONDARY SCHOOL,
   TEVARATTI VILLAGE, CHIKKODI TALUK,
   BELAGAVI DISTRICT-591 232

   RESIDENTIAL ADDRESSES,
   DEVARA HIPPARGI VILLAGE,
   SREE CHOWDAMMA TEMPLE NEAR,
   SINDGI TALUK,

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

BIJAPUR DISTRICT 586 115

3. MAHANTAYYA MALLAYYA MATHAPATI,
S/O.MALLYYA MATHAPATI,
AGED ABOUT 31 YEARS,
PRESENTLY WORKING AT,
GOVERNMENT HIGHER
PRIMARY SCHOOL, DADNATTI,
BAGALKOT DISTRICT-587122
RESIDENTIAL ADDRESSES,
SALAPUR VILLAGE,
BELGAUM DISTRICT-591123

…PETITIONERS

(BY SRI. PRASANNA KUMAR. P., ADVOCATE)

AND:

1. THE DIRECTOR GENERAL,
PRISONS AND CORRECTIONAL SERVICE
DEPARTMENT,
DEPARTMENT NO.04, SHESHADRI ROAD,
GANDHINAGAR, BANGALORE - 560 020

2. THE CHIEF SUPERINTENDENT,
CENTRAL PRISONS,
PARAPPANNA AGRAHARA,
BANGALORE-560 068

3. THE DEPUTY DIRECTOR,
DEPARTMENT OF PRIMARY EDUCATION,
DEPARTMENT OF PUBLIC INSTRUCTION,
ALUR, VIJAYAPURA DISTRICT- 586129

4. THE DEPUTY DIRECTOR,
DEPARTMENT OF PRIMARY EDUCATION,

DEPARTMENT OF PUBLIC INSTRUCTION,
CHIKKODI TALUK,
VIJAYAPURA DISTRICT- 591 201

5. THE DEPUTY DIRECTOR,
DEPARTMENT OF PRIMARY EDUCATION,
DEPARTMENT OF PUBLIC INSTRUCTION,
VIJAYAPURA DISTRICT,
VIJAYAPURA 591 201

…RESPONDENTS

(BY SMT. ASHVINI PATIL, AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE ENDORSEMENT DATED 28.08.2025 IN NO.EST2/CR-17/2025 HEREIN MARKED AS ANNEXURE-R AND CONSIDER THE REPRESENTATION DATED 25.08.2025 MARKED AS ANNEXURE-E PERTAINING TO THE PETITIONER NO.1. ENDORSEMENT DATED 28.08.2025 IN NO.EST2/CR-20/2025 HEREIN MARKED AS ANNEXURE-S AND CONSIDER THE REPRESENTATION DATED 04.06.2025 MARKED AS ANNEXURE-K PERTAINING TO THE PETITIONER NO.2 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

ORAL ORDER

The petitioners had joined the services of the Central Prisons. The petitioners had taken part in the recruitment process to join posts relating to the Education Department. They subsequently applied for No Objection

Certificate (NOC) from their Employer i.e., the State, while being employed under Central Prisons in order to take up the posts for which they were selected as teachers in the Government institutions. At the time of grant of NOC by the Prisons Department, the Prison Department insisted on the petitioners to pay the expenditure incurred on the petitioners, during the period of training which has been paid by the petitioners. Subsequently, the petitioners had made representations for refund of the amounts which they had paid. The said representations of the petitioners seeking refund came to be rejected by virtue of endorsements at Annexures-R, S and T.

2. At the time of hearing of the matter, the counsel for the petitioners has placed reliance on the order in W.P. No.107187/2025 and submits that the present writ petition may be allowed and direction be made to respondent No.1 to refund the amount in taking note of the directions passed in W.P.No.107187/2025.

3. Learned Government Advocate has filed a statement of objections.

4. The only stand by the learned Government Advocate is that the Government had incurred expenditure for the training of the employees and accordingly the petitioners having joined a subsequent employer, though Government, have not made use of the training that was imparted to them and accordingly the actual loss ought to be reimbursed. However, insofar as the findings recorded in W.P.No.107187/2025 as well as the order in W.P.No.3801/2022, the Government Advocate is unable to controvert that the present facts are also covered by the said orders.

5. In W.P.No.107187/2025, the Co-ordinate Bench in an identical factual matrix had directed the employer to refund the sum deposited by the petitioners therein which was paid as being expenditure incurred during training as well as the salary and allowances during such period.

6. The learned Single Judge has made certain observations in W.P.No.107187/2025, which are extracted below for the purpose of reference and the relevant observations at para No.2 till end, reads as follows:

> 2. The learned counsel appearing for the petitioner submits that the petitioner is similarly placed to that of the respondents in Writ Petition No.3801 of 2022 disposed of on 19.09.2022. The State had preferred the said writ petition against the order of the Karnataka State Administrative Tribunal, which had allowed the case of the respondents therein. The same reads as under:
>
> > "Heard the learned High Court Government Pleader appearing on behalf of the petitioners.
> >
> > 2. The petitioners are the Addl. Director General and Inspector General of Prisons, Chief Superintendent, Central Prisons, Mysuru, and the Superintendent, Taluka Sub-Jail, K. R. Nagara, Mysuru District. The respondents are the applicant and the Managing Director of BMTC respectively.
> >
> > 3. The facts in a nutshell are that respondent No.1 was appointed as a Lady Warder by petitioner No.2 herein and was given posting. Petitioner No.2 thereafter by order dated 11.07.2012 directed the applicant to report with petitioner No.3.

That thereafter 22.01.2013, the applicant was deputed for fundamental training and in accordance with Rule 76 (8) of the Karnataka Civil Services Rules (KCSRS), the period spent on training would be treated as duty. After completion of training, the applicant has reported back to petitioner No.3.

4. That thereafter there was an invitation by respondent No.2 herein inviting the applications for the post of Assistant Traffic Inspector and the applicant obtained NOC from the competent authority and applied for the said post. Thereafter, respondent No.1/applicant was successful 4 and her name came to be included in the select list. Accordingly, the applicant submitted her resignation and thereafter, is said to have proceeded to training with respondent No.2 herein. Upon receipt of the resignation, petitioner No.2 by notice dated 03.12.2014 directed the applicant to remit a sum of Rs.1,45,778/-being the sum equivalent to the sum paid by way of salary during the period of training and that the payment was made a precondition for accepting the resignation. Aggrieved, respondent No.1/applicant approached the Tribunal.

5. The Tribunal after examining the matter concluded that the matter was squarely covered by an earlier decision rendered by it in the case of Swamy S. K. vs. The Addl. Director General & Inspector General of Prisons and Anr. (A.No.3246/2012, DD 24.06.2013), wherein the Tribunal has recorded in paragraph No.6 of the Swamy S.K. judgment as under:-

6. There is no dispute that the applicant who was working as a Warder in the Prisons department since 1.1.2008 applied for the post of Excise Guard after obtaining no objection certificate from the first respondent vide Annexure-A3 dated 18.8.2009. However, vide OM dated 17.9.2010 at Annexure-A4 the applicant was deputed for training and the applicant completed the training that was held from 1.10.2010 to 30.6.2011. We also find that satisfactory declaration of probationary period in relation to the applicant has also been made as per Annexure-A1 dated 2.11.2010. The applicant had to undergo foundation training from 1.10.2010 since he was deputed to such training by the first respondent who had earlier issued no objection certificate to the applicant to apply for the post of Excise Guard. On his selection and appointment to the post of Excise Guard, the applicant requested his official superior to relieve him and since the first respondent refused to relieve the applicant on the ground of shortage of Warders in the Prisons department, the applicant submitted his resignation to the post of Warder. As rightly contended on behalf of the applicant as per Rule 76(8) of KCSRs., a government servant deputed to undergo a course of instructions or training authorized by or under the orders of the competent authority has to be treated as on duty. In this case, the first respondent had deputed the applicant for training and the fact that the training period is treated as duty is specifically mentioned in the OM dated 17.9.2010 (Annexure- A4) by which the applicant was deputed for training. When the applicant is on duty, there cannot

be any dispute that he is entitled to pay and allowances for the said period. In the said circumstance, the action taken by the first respondent to recover the said sum when the applicant who was left with no other option but to tender resignation to the post of Warder on his selection and appointment to the post of Excise Guard is not justified. In this connection, on behalf of the respondents it is contended that as per the terms and conditions of the training approved by the Government on 19.9.2010 in the Government letter No. HD 93 PRE 96, the applicant is liable to repay the pay and allowances drawn by him during the training period along with Rs.2,000/- in the event of not completing the minimum service of five years after such training. In this regard, our attention is drawn to the manual relating to the training of Warders and Head Warders and it is contended that as per the terms and conditions mentioned therein, the applicant is liable to repay the pay and allowances along with Rs.2,000/- to the Government. Firstly, we may note that any condition in the manual cannot go contrary to Rule 76(8) of KCSRs., as per which the period of training has to be treated as duty. Secondly, we find that there is no undertaking given by the applicant to repay the salary and allowances received by him during the training period. We find that as per the OM dated 17.9.2010 issued by the first respondent, the official superior of the applicant ought to have obtained an undertaking from the applicant to abide by the terms and conditions mentioned in the training manual as mentioned in the said OM. It is not the case of the first respondent that any such letter

> of undertaking was obtained from the applicant. On the other hand, from the letter dated 28.5.2013 addressed to the first respondent from the Principal of the training college and the letter dated 28.5.2013 sent by the Superintendent of Sub-Jail, K.R. Nagar to the first respondent, copies of which are produced by the learned Additional Government Advocate along with the memo dated 10.6.2013 before this Tribunal, it can be said that no such letter of undertaking was obtained from the applicant binding him to repay the salary and allowances received by him during the training period. In the absence of any undertaking obtained from the applicant, the first respondent cannot direct recovery of the pay and allowances paid to the applicant."

6. Reliance was also placed on another ruling of the Tribunal in the case of Mallikarjun N. Biradar vs. The Addl. Director General & Inspector General of Prisons & Anr. (A.No.8135/2014, DD 20.01.2016). The matter being squarely covered by the observations therein, the Tribunal deemed it fit to allow the case of the applicant also. Aggrieved, the Department is before this Court.

7. We have perused the reasoning assigned by the Tribunal while disposing of earlier applications which are extracted in paragraph No.12 of the impugned order. The Tribunal has held that official respondents/petitioners herein are bound by the rigor of Rule 76(8) of the KCSR which specifically states that the period spent during training is to be treated as period spent on duty.

8. That apart, we see that in the instant case, the petitioners have also given their NOC thereby

enabling the applicant to apply to the post of Assistant Traffic Inspector. Having given their NOC and allowed the applicant to strive and work hard for success in her endeavor, the petitioners 9 could not have made a u-turn. It is not the case of the petitioners that the NOC was a is the learned High Court conditional NOC Government Pleader able to point out any provisions which enables them to impose any such condition while granting NOC. What is even more abrasive is the fact that the respondent No.2 is none other than a wing of the Government.

9. It is not the case of the petitioners that they have incurred any specific amounts for imparting training. In that view of the matter, we do not find any justification for the writ petition.

10. It is also pertinent to note that two applications allowed by the Tribunal circumstances referred to in the impugned order have apparently become final and petitioners are the very same parties in the said applications also. Despite being aware of the settled position, the instant writ petition is preferred. Hence, the writ petition is dismissed with cost of Rs. 10,000/- to be deposited into the Chief Minister's Relief Fund within a period of eight weeks.

The writ petition is ordered accordingly."

3. The learned counsel for the petitioner submits that the petitioner is similarly placed, which is not disputed by the learned HCGP.

4. In the light of the issue standing answered by the Division Bench, as quoted supra, the petition deserves to succeed. Accordingly, the following:

ORDER

(i) The writ petition is allowed.

(ii) The impugned endorsement dated 09.05.2025 2018 / 2020 issued by bearing No.EST2 / CR respondent No.1 is hereby set aside.

(iii) Mandamus issues to the respondent Nos. 1 and 2 to consider representations the dated 30.06.2025 and 21.03.2025 and to refund the sum deposited by the petitioner towards training salary and allowances in accordance with law within a period of 12 weeks from the date of receipt of copy of this order.

7. It is noticed that the observations of the Tribunal have been upheld by the order passed in W.P.No.3801/2022, which is referred to in the order passed in W.P.No.107187/2025 extracted above.

8. It is not in dispute that there was no undertaking taken from the petitioners regarding reimbursement of salary, allowances and expenditures that may be incurred and paid to them in the event they leave the employment. It is also a part of the record that permission was given to them to take up fresh

employment in the Education Department, which factual aspect is also not controverted.

9. It is further asserted that the petitioners have joined the education institutions managed the Government by taking permission with benefit in terms of Section 252(b) of the KCSR. Accordingly, taking note of the order of the Co-ordinate Bench referred to above, the petitioners are also entitled for a similar relief.

10. Accordingly, the following:

ORDER

i. The Writ Petition is **allowed**.

ii. The endorsements at Annexures-R, S and T are set aside.

iii. Respondent No.2 is directed to refund the amount paid by the petitioners at the time of NOC being given and such amount to be refunded within a period of 12 weeks from the date of receipt of copy of this order.

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

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

SKS