HC-KAR

NC: 2026:KHC:20156
WP No. 15219 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.15219 OF 2024 (S-R)

BETWEEN:

DR AHMED ABDUL FAZAL
S/O HAJI P MAMMUNHI
AGED ABOUT 64 YEARS,
(SENIOR CITIZEN NOT CLAIMED)
RESIDING AT NO.25-21-1320/9(1)
MAJILA COLONY, III CROSS
SEMINARY VIEW
MANGALORE-575 002.

…PETITIONER

(BY SRI. NITIN RAMESH, ADVOCATE)

AND:

1. UNIVERSITY OF AGRICULTURAL SCIENCES
BANGALORE
GKVK BANGALORE-560 065
REPRESENTED BY ITS REGISTRAR.

2. UNIVERSITY OF AGRICULTURAL
SCIENCES, RAICHUR
P B NO.329, RAICHUR-584102
REPRESENTED BY ITS REGISTRAR.

3. UNIVERSITY OF AGRICULTURAL
SCIENCES, DHARWAD
KRISHINAGAR, DHARWAD-580 005
REPRESENTED BY ITS REGISTRAR.

…RESPONDENTS

(BY SRI. M. SREENIVASA, ADVOCATE FOR R-1;
SRI. K.G. NAYAK, ADVOCATE FOR R-2 & R-3)

Digitally signed by CHANDANA B M
Location: High Court of Karnataka

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-1 TO PROVIDE

THE ENTIRE PENSIONARY BENEFITS TO THE PETITIONER FOR THE 25 YEARS OF CONTINUOUS SERVICE (FROM 27.08.1996 TO 31.05.2021) THAT THE PETITIONER PUT IN WITH THE RESPONDENTS-UNIVERSITIES AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

"a. Issue a writ of mandamus or any other appropriate writ directing the respondent No.1 to provide the entire pensionary benefits to the petitioner for the 25 years of continuous service (from 27/08/1996 to 31/05/2021) that the petitioner put in with the respondents-Universities.

b. Issue a writ of mandamus or any other appropriate writ directing the Respondent No.2 to remit the pensionary benefits payable to the petitioner to respondent No.1 for the years of continuous service (from 27/08/1996 to 25/10/2013) that the petitioner had put in with the respondents 2 and 3-Universities.

c. Issue a writ of mandamus directing the respondents 1 and 3 to pay appropriate interest for overdue pension and compensation for the delay in the payment of pension to the petitioner in accordance with law.

d. Pass such other orders as the Court may deem fit in the interest of justice and equity."

2. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the material on record.

3. A perusal of the material on record will indicate that the petitioner was appointed as Assistant Professor of Fisheries (Aquaculture) in Extension Education Unit at the University of Agricultural Sciences (UAS-D) on 27.08.1996 and reported to duty on 29.08.1996 and from that day onwards, the petitioner served in various designation / cadre in UAS-D upto 22.12.2010 and as a result of bifurcation of UAS-Dharwad into UAS-Raichur, petitioner continued to work at UAS-Raichur between 23.12.2010 and 25.10.2013. Meanwhile, petitioner made an application to the post of Professor (Food Processing Technology) at UAS-Bangalore, which was forwarded by the UAS-Raichur to the Administrative Officer of UAS-Bangalore vide Annexure – D dated 22.01.2013. Based on the said application forwarded by the petitioner by way of technical resignation in terms of Rule 252(b) of the Karnataka Civil Service Rules (for short, 'KCSRs'), which is applicable to the respondent-Universities, the 1st respondent-UAS-Bangalore appointed the petitioner as Professor (Food Processing Technology) on 24.09.2013, pursuant to which, the technical

resignation submitted by the petitioner was accepted by UAS-Raichur and petitioner was relieved from his duties and reported to UAS-Bangalore on 28.10.2013.

4. Subsequently, after attaining the age of superannuation on 31.05.2021, the petitioner submitted a representation on 19.08.2020 requesting 1st respondent – UAS-Bangalore to reckon / consider his past services and apply the Old Pension Scheme (OPS) instead of the New Pension Scheme (NPS) since he had continuity of service due to technical resignation submitted by him to UAS-Raichur, which was forwarded by the UAS- Raichur to 1st respondent / UAS-Bangalore, while still working in UAS Raichur. It is the grievance of the petitioner that despite repeated representations submitted by him even after retirement, requesting the 1st respondent to consider his past service and grant him pensionary benefits under the Old Pension Scheme, neither the 1st respondent nor any of the respondents are taking any steps in this regard and as such, the petitioner is before this Court by way of the present petition placing reliance upon the judgment of this Court rendered under identical circumstances in relation to another employee of the same respondent-Universities

in the case of ***Dr. S.N. Vasudevan Vs. State of Karnataka and others – W.P.No.10327/2021 dated 06.03.2024***. It is therefore submitted that the present petition deserves to be disposed of directing the 2nd and 3rd respondents to forward the entire pensionary benefits payable to the petitioner to the 1st respondent – UAS-Bangalore, who may be directed to take further action within a stipulated time frame in accordance with law.

5. Per contra, learned counsel for 1st respondent submits that if 2nd and 3rd respondents forwards the pensionary benefits payable to the petitioner to the 1st respondent, the 1st respondent shall take appropriate action in this regard and fix the pension payable in favour of the petitioner, in accordance with law.

6. Per contra, learned counsel for 2nd and 3rd respondents submits that if reasonable time is granted, the 2nd and 3rd respondents would calculate the pension payable to the petitioner, in accordance with law and as per the statutes governing the 2nd and 3rd respondents and forward the pensionary benefits to the 1st respondent, who may be directed to proceed further in accordance with law.

7. A perusal of the material on record will indicate that the petitioner was initially appointed as Assistant Professor of Fisheries on 27.08.1996 at UAS-Dharwad, where he worked till 22.12.2010 and as a result of bifurcation of the University into UAS-Dharwad and UAS-Raichur, the petitioner continued to work at UAS-Raichur upto 25.10.2013. In this context, a perusal of the application at Annexure – D dated 22.01.2013 pursuant to which, the UAS-Raichur forwarded the said application to the 1st respondent – UAS-Bangalore on 24.09.2013 is sufficient to come to the conclusion that the petitioner had submitted technical resignation to the 2nd respondent within the meaning of Rule 252(b) of the KCSRs, which had been adopted by the respondent-Universities. Under identical circumstances in relation to another employee of the respondent-Universities in *Dr. S.N.Vasudevan's* case supra, it is held as under:

> *"Petitioner is assailing the endorsement bearing No. KUSA/KRU.VI.VI.RA/AA.VI-1/579/2018-19 dated 04.07.2018 issued by respondent No.2 as per Annexure-H wherein respondent No.2 under the impugned endorsement while rejecting the petitioner's representation has held that petitioner is bound by new pension scheme introduced by the Government of Karnataka on 31.3.2006.*

2. The facts leading to the case are as under:

Petitioner was initially appointed as a Seed Certification Inspector in the Karnataka Seed Certification Agency and worked in the said institution till 2.8.2000. While serving in the above said agency, petitioner applied for the post of Associate Professor in respondent No.2-University. The application was routed through respondent No.2-University. Petitioner was appointed as an Associate Professor in respondent No.2-University by accepting technical resignation by Karnataka Seed Certification Agency.

3. Petitioner while serving in respondent No.2-University applied for the post of Associate Director of Research in respondent No.3-University and petitioner was appointed as Associate Director of Research (Professor Cadre) by way of direct recruitment at Zonal Agricultural Research Center(ZARS), V.C. Farm, Mandya.

4. The Administrative Officer of respondent No.3-University addressed a letter to respondent No.2 requesting to send the Service Register and Last Pay certificate of petitioner for the purpose of fixation of pay scale. It is in this context, respondent No.2 has issued the impugned endorsement in response to the representation submitted by the petitioner on 30.12.2017 indicating that petitioner's appointment is bound by New Pension Scheme.

5. The learned counsel for the petitioner reiterating the grounds urged in the petition and referring to Statute 66 of the University of Agricultural Sciences Statutes,

1964, (for short "UAS Statutes, 1964") would vehemently argue and contend that pensionary benefits are also admissible to the employees of University of Agriculture Science and as such the services rendered by the petitioner at the Karnataka State Seed Certification Agency and at University of Agricultural science, has to be counted for the pensionary benefits. He would further contend that the petitioner's resignation being a technical resignation is accepted under Rule 252(b) of the Karnataka Civil Services Rules (for short "KCSR"). Referring to 252(b) of KSCRs, he would contend that if a technical resignation is tendered and the same is accepted in terms of Rule 252(b) of KCSRs, the resignation being a technical resignation never contemplates stoppage of service and therefore, his services has to be counted from 1986 till today.

6. He has also placed reliance on the continuity of service extended to the similarly placed employees of respondent No.2-University. Reliance is also placed on acceptance of resignation tendered by petitioner to respondent No.2-University which is accepted on 16.1.2018. He would also place reliance on the document dated 17.1.2018 issued by respondent No.3 University to substantiate that petitioner's appointment to respondent No.3 is preceded by acceptance of technical resignation.

7. Per contra, learned counsel appearing for respondents 2 and 3 arguing in the same vein have taken this Court through the appointment order issued by respondent No.3. Referring to Annexure-C, the counsel on

record would point out that petitioner's appointment vide Annexure-C to the petition clearly indicates that petitioner's appointment is subject to contributory pension scheme as per Government Order dated 31.3.2006. Reliance is also placed on Annexure-R2 to the statement of objections to contend that in respect of appointments made post 1.4.2006, the old pension scheme is not applicable.

8. Heard the learned counsel for the petitioner and the learned counsel appearing for respondents.

9. Respondent No.2 vide impugned endorsement dated 4.7.2018 has rejected petitioner's claim and petitioner's request to remit the pensionary benefits either to him or to respondent No.3-University of Agricultural Sciences, on the ground that his appointment is bound by New Pension Scheme introduced by Government of Karnataka on 31.3.2006.

10. Petitioner was appointed as a Seed Certification Inspector on 4.7.1986 and worked in the said Agency till 2.8.2000. Petitioner applied for the post of Associate Professor, University of Agricultural Sciences in the Department of Seed, Science and Technology at Raichur. The application was admittedly routed out through the Karnataka Seed Certification Agency. Therefore, service rendered by the petitioner in the Agency from 4.7.1986 to 2.8.2000 as Seed Certification Inspector was counted for determining the pensionary benefits in respondent No.2-University. The agency remitted a sum of Rs.90,001.50/- to

the University towards its contribution at the rate of 12.5 % along with interest at the rate of 6% per annum.

11. While working as a Professor and the Head of the Department of Seed Science and Technology, Raichur, petitioner applied to the post of Associate Director of Research in respondent No.3-University through proper channel. The petitioner was selected in respondent No.3-University and his technical resignation tendered to the post of Professor at respondent No.2-University under Section 252(b) of KCSRs was accepted by respondent No.2 w.e.f. 16.1.2018 as per the order at Annexure-F.

12. Learned counsel appearing for respondents 2 and 3 are relying on the appointment order issued by respondent No.3 which contemplates that petitioner's appointment is governed by New defined Contributory Pension Scheme as per Government Order No.FD(SPL) 04 PET 2005 dated 31.3.2006. Referring to this clause, the contesting respondents have justified the endorsement issued by respondent No.2 as per Annexure-H.

13. Statute 66 of the UAS Statutes,1964 reads as under:

> *"66. *(1) "Pensionary benefits are also admissible to USA employees who have rendered service in any Department/s of the Government of Karnataka/Central Government/ICAR/other Universities in India or Statutory Bodies in Karnataka formed by an Act of Legislaturel Central Autonomous Bodies subject to the guidelines/instructions issued vide GO. No. FD 35 SRS 83 dated 27th June 1987."*

(ii) Such service in individual cases, be treated by the Vice-Chancellor as services qualifying for pension subject to the condition that in each case, pension contribution at 121/2% shall be paid by the previous employers or by the employee concerned for the services rendered based on the basic pay he drew from time to time outside the University.

(iii) The above pension contribution is payable within a period of one year, from the date on which these Statutes are given effect to in respect of the employees already working in the University and in respect of new entrants, from the date of report of the employee in the University. In cases of belated payments, a simple interest at 6 per cent per annum shall be levied on the pension contribution so outstanding till it is credited by the previous employers or by the employee concerned.

(iv) In respect of an employee who accepts appointment in any Department of the Government of Karnataka / Central Govt./ICAR/in any University in India or Statutory Bodies in Karnataka formed by an Act of Legislature, where Pension Scheme exists, with the prior approval of the University, the University will undertake to pay pension contribution to the extent of 121/2, per cent of the basic pay drawn by such an employee from time to time provided his actual qualifying service is not less than 10 years."

14. It would be also useful to refer to Rule 252(b) of KCSRs which reads as under:

"Rule 252(b): Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service."

15. Rule 252(b) of KCSRs clearly contemplates that where a Government servant who has joined Government service prior to 1.4.2006, applies for the post in the same or

other departments and on selection, they are asked to tender technical resignation then past services are counted towards pension if the new post is in pensionable terms and therefore Government servant continue to be covered under the Old Pension Rules even if they have joined the new post after 1.4.2006. In case of a Government servant, the selection to another post on acceptance of technical resignation, his previous services are counted. The respondents' contention that the appointment order contemplates that petitioner's appointment is governed by New Pension scheme cannot be acceded to. The Apex Court in the case of ***Indra Sawhney .vs. Union of India*** *has held that executive instructions can be issued only when there are no statutory provisions on the subject. Statute 66 of the UAS statutes, 1964 clearly contemplates that pensionary benefits are also admissible to UAS employees who have rendered service in any Department/s of Government of Karnataka, Central Government or other universities and such services in individual cases have to be treated as qualifying service for pension. The words 'pension', 'gratuity', 'Employees' and 'Family' indicated in the UAS Statutes of respondent No.3 has the same meaning and definition as defined in the KCSRs and the Karnataka Government's (Family Pension) Rules, 1964 as amended from time to time. Statute 73 of the UAS Statutes, 1964 would be relevant and the same reads as under:*

> *"73. In respect of the various kinds of pension listed in Statute 71, the corresponding provisions of KCSRs, shall apply mutatis mutandis except for sanction of weight age upto five years, (as an addition*

to the qualifying service actually rendered by an employee), referred to in Clause (v) of sub-rule (2) of rule 285 ofKCSRs, which (weight age) shall be given to an employee who is permitted to retire voluntarily on completion of a qualifying service of not less than 15 years. The grant of such weight age shall, however, be subject to the condition stipulated in the aforesaid clause (v), that is, that the total qualifying service after allowing the weightage shall not, in any case, exceed the qualifying service which the employee would have had, if he had retired on attaining the age of superannuation."

16. If these relevant statutes and Rules are taken note of, it is clearly evident that petitioner has tendered technical resignation and his application seeking appointment in Open Recruitment in respondent No.2 and respondent No.3 Universities was routed through proper channel and it is on selection, petitioner tendered technical resignation at the Karnataka Seed Certification Agency while being appointed as a Associate Professor at Respondent No.2 University, Raichur, and similarly, having been appointed as a Associate Director of respondent No.3 University tendered technical resignation and therefore, the application forwarded by the petitioner on two occasions while securing employment at respondent No.2 and respondent No.3 Universities was through proper channel and therefore, the resignation of the petitioner has to be treated as a technical resignation and the benefit of past service is clearly admissible in the present case on hand.

17. Technical resignation serves as a strategic tool within organizational frameworks, enabling seamless internal talent mobility while aligning with broader talent management

objectives. This practice facilitates the optimization of organizational resources by allowing employees to transition to different roles at different departments. By leveraging talent pools, state Government / Universities can effectively match employee skills with evolving business needs, fostering agility and adaptability in response to changing academic dynamics and technological advancements.

18. When an employee tenders a technical resignation, the calculation of past services is a critical aspect of determining entitlements such as pension benefits. Typically, past services are calculated based on the employee's total tenure within the organization, including their time spent in the previous department or role prior to transfer. This comprehensive approach ensures that employees receive recognition and rewards commensurate with their entire service tenure, contributing to principles of fairness, equity, and employee satisfaction. Organizations may utilize established methodologies and systems to accurately calculate past services, taking into account factors such as employment start date, breaks in service, and any relevant policy guidelines or regulatory requirements.

19. Therefore, technical resignation serves as a multifaceted tool for talent management and organizational development, fostering mobility, employee engagement, and operational efficiency. By aligning with broader strategic objectives and adhering to compliance standards, organizations can leverage technical resignation practices to optimize talent resources, promote career advancement

opportunities, and enhance overall organizational effectiveness wherein they are appointed by way of direct recruitment.

20. In the result, this Court proceeds to pass the following:

ORDER

(i) Writ petition is allowed.

(ii) Impugned endorsement bearing No. KUSA / KRU.VI. VI. RA/AA.VI -1/579/2018-19 dated 4.7.2018 issued by respondent No.2 as per Annexure-H is hereby quashed.

(iii) Respondent No.2 is hereby directed to forward the entire pensionary benefits payable to the petitioner to respondent No.3 for further action, within a period of eight weeks from the date of receipt of a certified copy of this order."

8. As can be seen from the aforesaid judgment, this Court has recorded a categorical finding that technical resignation in terms of Rule 252(b) of the KCSRs and the statutes of the respondent – University would entitle the petitioner to claim pensionary benefits under the Old Pension Scheme by calculating continuity of service from 1996 upto the date of superannuation. Under these circumstances, I am of the considered opinion that the petitioner would be entitled to the entire pensionary benefits for 25 years of continuous service that is from 27.08.1996 to 31.05.2021 that the petitioner had put in with the respondent – Universities. As

directed by this Court in *Vasudevan's* case supra, the 2nd and 3rd respondents are also to be directed to forward the entire pensionary benefits payable to the petitioner to the 1st respondent, for fixation by the 1st respondent within a stipulated time frame and the present petition deserves to be disposed of accordingly.

9. In the result, I pass the following:

ORDER

(i) The petition is hereby ***allowed and disposed of*** in terms of judgment of this Court in *Vasudevan's case* referred to supra.

(ii) *2nd and 3rd* respondents are hereby directed to calculate the entire pensionary benefits payable to the petitioner, in accordance with law and in terms of the statutes governing the respondent – Universities and as per the Old Pension Scheme for the entire period from 27.08.1996 to 31.05.2021 and forward the said amount to the 1st respondent within a period of eight weeks from the date of receipt of a copy of this order.

(iii) Immediately upon receipt of the said amount by the 1st respondent from 2nd and 3rd respondents, the 1st

respondent shall fix the pension payable to the petitioner and disburse / release the said amount in favour of the petitioner within a period of six weeks from the date of receipt of the said amount from 2nd and 3rd respondents, in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SV
List No.: 1 Sl No.: 15