IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

REGULAR FIRST APPEAL NO. 877 OF 2019 (DEC)

BETWEEN:

THE BANGALORE
DEVELOPMENT AUTHORITY
BANGALORE
RERPESENTED BY
THE COMMISSIONER

...APPELLANT

(BY SRI. SACHIN B.S, ADVOCATE)

AND:

M MALLANNA
S/O MALLEGOWDA
AGED ABOUT 62 YEARS
R/O 552, 91ST CROSS,
K.S LAYOUT
BENGALURU-560 078

...RESPONDENT

(BY SRI. LAKSHMISH G, ADVOCATE)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 12.02.2019 PASSED IN OS.NO.6285/2016 ON THE FILE OF THE XXVII ADDITIONAL CITY CIVIL JUDGE, AT BENGALURU, DECREEING THE SUIT FOR DECLARATION AND INJUNCTION.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 08.10.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

This Regular First Appeal is filed by the appellant-defendant challenging the Judgment and Decree dated 12.02.2019 passed in O.S. No. 6285 of 2016 by the XXVII Additional City Civil Judge, Bengaluru City (CCH-38), whereby the Trial Court decreed the suit of the plaintiff.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court. The appellant is the defendant and respondent is the plaintiff.

3. The abridged facts of the case are that the plaintiff instituted O.S.No.6285 of 2016 seeking declaration that his date of birth is 20.05.1959, a consequential direction to the defendant to effect the correction of his date of birth in his service register and other records, the cancellation of the notification dated 31.12.2015, and absorption into service. The Trial Court decreed the suit in favour of the plaintiff. Aggrieved by the said judgment and decree, the defendant-BDA has preferred this appeal.

4. Heard the learned counsel Sri. Sachin B.S. for the defendant/appellant authority and the learned counsel Sri. Lakshmish G. for the plaintiff/respondent.

5. The primary contention of the learned Counsel for the appellant/defendant is that the impugned judgment and decree passed by the Trial Court is one without jurisdiction as the same is barred by the Karnataka State Servants (Determination of Age) Act, 1974 (for short, "the Act"). Placing reliance on Section 6 along with Section 4 of the Act, he submits that there is a bar of jurisdiction of Courts under Section 6 of the Act such that no Court shall have jurisdiction to settle, decide, or deal with the question required to be decided under the said Act. According to him, the prayer of the plaintiff before the Trial Court was to declare the date of birth of the plaintiff as 20.05.1959 and direct the defendant to effect the correction of date of birth of the plaintiff in the service register and other prayers. As such, he submits, the said prayer has to be dealt with under the Act and the Civil Court has no jurisdiction to try such suit. He also submitted that any correction to the age of the employee in his service register has to be initiated within a prescribed time as provided under Section 5 of the Act.

6. Learned Counsel further contended that the defendant issued multiple notices to the plaintiff to produce the original SSLC marks card for verification of his date of birth in view of the alteration made in the service record, despite which the plaintiff did not produce the said document. Additionally, he contended that the defendant-BDA also made an application dated 30.09.2009 to the Joint Director of Public Instructions, Mysuru, requesting to submit the certified copy of the SSLC marks card and record; however, the Joint Director returned the said application. Thereafter, the defendant also made an application to the Karnataka Higher Education Board to send the certified copy of the SSLC marks card of the plaintiff. On 26.05.2010, the Board replied that the Marks Card was not available, but enclosed the extract of the relevant page of the SSLC result volume, where the date of birth and marks of the plaintiff were recorded in the Board record, which indicated the date of birth of the plaintiff as 20.05.1956, thus making it clear that his service record was altered from that date to 20.05.1959. As such, he contended that the Trial Court failed to examine all the above aspects in accordance with law. Accordingly, he prays to allow the appeal.

7. To buttress his argument, he relied on the following judgments:

1. ***Bharath Coking Coal Ltd. vs. Sham Kishore Singh*** *reported in* ***AIR 2020 Supreme Court 940***
2. ***State of Maharashtra & Anr vs Gorakhnath Sitaram Kamble & Ors****. reported in* ***(2010) 14 SCC 423***

8. Per contra, the learned counsel for the respondent-plaintiff by supporting the impugned judgment and decree contended that the plaintiff joined the service of the defendant authority on a daily wage basis on 10.11.1975 and was later promoted as a First Division Assistant. From all the service records, the date of birth of the plaintiff was shown as 20.05.1959. However, at one point in time, there were some complaints against the date of birth of the plaintiff and an FIR was registered against him in Crime No. 35/2014, and on investigation, it was found that there was no mischief played by the plaintiff in the SSLC Marks Card and accordingly a 'C' Report has been filed in the said case. Later, all of a sudden, the defendant issued a notification dated 31.12.2015 notifying the list of employees to be retired during the year 2016 and in the said list the name of the plaintiff was inserted indicating

that the date of birth of the plaintiff was mentioned as 20.05.1956 instead of 20.05.1959. As such, the plaintiff filed a writ petition in W.P. No. 31181/2016 before this Court, and in the said writ petition, it was ordered that the plaintiff is at liberty to file a suit for declaration of his date of birth and for consequential relief.

9. Thereafter, by causing a legal notice, the plaintiff filed the suit for declaration. He further contended that the defendant issued the said notification after 4 decades and that too after the Police gave a clean chit to the plaintiff regarding the alleged manipulation in respect to his date of birth. He further contended that there is no absolute bar for the Civil Court to pass a decree of educational/civil declaration. If the educational certificates are corrected in pursuance of a decree, that may not be a case of claiming direct alteration of age in the service register solely on the basis of the civil decree, but serves as a foundational declaration of civil status as recognized by this Court in ***State of Karnataka vs. Gurubasappa Basappa Sajjan*** reported in **1995 Supreme (Karnataka) 462**. According to him, these aspects of the matter were rightly decided by the Trial Court. Hence, he prays to dismiss the appeal.

10. Having heard the learned counsel for the parties, the points arising for our consideration are:

> *i. "Whether the impugned judgment and decree passed by the Trial Court is without jurisdiction as being barred by Section 6 of the Karnataka State Servants (Determination of Age) Act, 1974?"*
>
> *ii. "Whether the defendant proved that the plaintiff has materially altered his date of birth in the SSLC Marks Card as 20.05.1959 instead of 20.05.1956?"*
>
> *iii. "Whether the impugned judgment and decree suffers from any perversity or illegality, which calls for interference?"*

11. Since point Nos. 1 and 2 raised above are interlinked, they are answered together. Before delving into the said points, it is appropriate to consider the binding principles laid down by the Co-ordinate Bench of this Court in the case of ***Gurubasappa Basappa Sajjan*** stated *supra*, wherein this Court clarified that a declaratory decree granted by a Civil Court regarding a date of birth reflected in educational certificates is permissible in law and cannot be termed entirely without jurisdiction, provided that the decree *per se* does not unilaterally alter service conditions, leaving the formal

procedural alterations to be pursued under Section 5 of the Age Determination Act where applicable.

12. In the instant case, the plaintiff filed the suit to declare his date of birth as 20.05.1959 and consequently direct the defendant to effect the correction of the date of birth of the plaintiff in the service register and also to cancel the notification dated 31.12.2015. The undisputed facts of the case are that the plaintiff joined service in the defendant authority on 10.11.1975 on a daily wage basis and thereafter he was appointed as a Gardener; later on 08.11.2000 he was promoted to the post of Second Division Assistant and again on 25.11.2006 he was promoted as First Division Assistant. From all the service records, the date of birth of the plaintiff was shown as 20.05.1959. The SSLC Marks Card produced by the plaintiff as per Ex.P1 also reveals that his date of birth is 20.05.1959 after correction of the same on 18.08.1975. Ex.P2, the certificate issued by the KPSC, also reveals the date of birth of the plaintiff as 20.05.1959. As stated supra, the plaintiff got promoted from daily wage worker to First Division Assistant in BDA, and in all those circumstances, the defendant specifically relied on the SSLC Marks card of the plaintiff showing the date of birth of the plaintiff as 20.05.1959. However, after 4

decades, the defendant issued the notification dated 31.12.2015 notifying the list of employees to be retired during the year 2016, wherein the plaintiff's name was also indicated by mentioning his date of birth as 20.05.1956. Immediately, the plaintiff approached this Court by filing a writ petition in W.P. No. 31181/2016, and while disposing of the said writ petition, the Co-ordinate Bench of this Court opined that the appellant has not filed any suit in this regard. Accordingly, the plaintiff filed the suit. In such circumstances, the facts of the case make it clear that the plaintiff has instituted the suit for civil declaration in connection with educational records and the retirement notification. Further, the initial dispute was raised by the defendant itself after 4 decades of continuous service by the plaintiff.

13. Nevertheless, the defendant also conducted an inquiry through its police agency by registering an FIR against the plaintiff in Crime No. 35/2014, and the said case culminated in the filing of a 'C' Report. Thereafter, an inquiry was also made by the defendant before the Karnataka Higher Education Board, and the said Board also clarified that no original SSLC Marks card was available. On a bare perusal of Ex.P1, the correction was made by the Secretary of the

aforesaid Board on 18.08.1975. No explanation was provided by the Board to suggest foul play by the plaintiff. Since it was concluded by the Police after investigation that the plaintiff had not made any mischief or forgery, in such circumstances the plaintiff had no other alternative except filing a suit against the defendant. Following the principles in ***Gurubasappa Basappa Sajjan***, *supra*, the civil declaration granted by the Trial Court regularizes the educational entry status without impinging upon the statutory framework, subject to formal administrative processing. Accordingly, I answer point Nos. 1 and 2 raised above in favour of the plaintiff-respondent.

14. he above discussion makes it clear that, the claim of the plaintiff is subjected to formal administrative processing, as such the order of the Trial Court directing the defendant authority to make necessary correction in the Service Records of the plaintiff lacks institutional and jurisdictional power. Hence the findings of the Trial Court in respect of the direction to the defendant to correct the date of birth of the plaintiff in the service register and other relevant service records, the cancellation of the notification dated 31.12.2015 insofar as it relates to the plaintiff at Sl. No. 20, and the direction to absorb the plaintiff into the services of the defendant for the remainder

of the plaintiff's service period, are hereby set aside. Accordingly, I pass the following.

ORDER

i) The Regular First Appeal is ***allowed in part***.

ii) The Judgment and Decree passed by the Trial Court are upheld insofar as the declaration of the plaintiff's date of birth as 20.05.1959 for the purpose of establishing the correct date of birth in the educational records.

iii) The Judgment and Decree of the Trial Court, insofar as directing the defendant to correct the date of birth of the plaintiff in the service register and other relevant service records; to set aside the notification dated 31.12.2015 insofar as it relates to the plaintiff at Sl. No. 20; and also to absorb the plaintiff into the services of the defendant for the remainder of the

plaintiff's service period, are hereby set aside.

iv) In all other respects, the judgment and decree of the Trial Court stand modified accordingly.

However, this judgment is not to be taken to be one affecting the service conditions of the plaintiff, unless proper alteration is sought from the authorities concerned under Section 5 of the Age Determination Act of 1974.

SD/-
(RAJESH RAI K)
JUDGE

PKS/V