HC-KAR

NC: 2026:KHC:59678-DB
WP No. 30605 of 2024

CNR: KAHC010651982024

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. 30605 OF 2024 (S-KSAT)

BETWEEN:

S RAJU
AGED ABOUT 64 YEARS,
S/O. LATE SANNA C,
RETIRED VILLAGE ACCOUNTANT,
MALAVALLI TALUK OFFICE,
MALAVALLI, MANDYA DISTRICT
R/AT 1ST CROSS,
N.K.E.S. BADAVANE,
5TH WARD, MALAVALLI TOWN,
MANDYA DISTRICT-571430.

...PETITIONER

(BY SRI. KESHAV CHANDRA S.P., ADV. FOR
SRI SHIVARAMU H. C., ADV.)

Digitally signed by NANJUNDACHARI
Location: High Court of Karnataka

AND:

1. STATE OF KARNATAKA
   REP. BY ITS PRINCIPAL SECRETARY,
   DEPARTMENT OF REVENUE,
   M.S.BUILDING,
   BANGALORE - 560 001.

2. THE DEPUTY COMMISSIONER,
   MANDYA DISTRICT,
   MANDYA 571 401.

3. THE ACCOUNTANT GENERAL
   IN KARNATAKA,

PARK HOUSE, PALACE ROAD,
BENGALURU -560 001.

…RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR SIMILAR WRIT OR ORDER OR DIRECTION TO QUASH THE ORDER DATED 20.08.2024 PASSED BY THE KSAT IN A.NO.963/2024 AT ANNEXURE-A IN SO FAR AS DENYING THE PAYMENT OF BACK WAGES FOR THE PERIOD OF DISMISSAL FROM SERVICE I.E., FROM 25.03.2015 TO 30.06.2017 AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, 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)

Petitioner, aggrieved by order dated 20.08.2024 in Application No.963/2024 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal'), whereunder the petitioner's prayer to quash order dated 17.01.2024 (Annexure-A15) passed by second respondent – Deputy Commissioner treating the period from 20.01.2008 to 19.07.2009 as suspension period and to treat the period from 25.03.2015 to 30.06.2017, the

date of dismissal to the date of superannuation of the petitioner as "dies non" under Rule 8(14)(A) of KCSRs.

2. Heard learned counsel Sri.Keshav Chandra.S.P., for Sri.Shivaramu.H.C., learned counsel for petitioner, and learned Additional Government Advocate Sri.Vikas Rojipura for respondent Nos.1 to 3. Perused the entire writ petition papers.

3. Learned counsel for the petitioner would submit that the petitioner who retired as Village Accountant was dismissed from service for proved misconduct by order dated 09.02.2015 and the said order of dismissal was subject matter of Application before the Tribunal in Application No.1046/2015. The Tribunal by its order dated 06.04.2017 allowed the Application quashed the impugned order of dismissal and directed the respondent-authorities to consider the reply of the applicant dated 29.11.2014 and pass appropriate orders in accordance with law. In pursuance to the said order, the State Government passed

order dated 20.03.2019 withholding entire pension permanently. The said order was the subject matter of Application No.5707/2019 before the Tribunal and the Tribunal by its order dated 08.03.2022 (Annexure-A4), set aside the order dated 20.03.2019 – penalty of withholding entire pension permanently and directed the respondents to pay all consequential including financial benefits to the petitioner. The said order was the subject matter of W.P.No.4662/2023 at the instance of respondent-State. This Court by order dated 23.03.2023 dismissed the writ petition confirming the order passed by the Tribunal dated 08.03.2022 in Application No.5707/2019.

4. Thereafter, the petitioner's pension was fixed in terms of Annexure-A11 dated 31.08.2023 of the third respondent – Accountant General. The petitioner submitted representation to treat the period of suspension as 'on duty' and also the period during which he was out of service as 'on duty' and to pay the consequential benefits. Taking note of

the earlier orders of the State Government and order of the second respondent – Deputy Commissioner, the second respondent – Deputy Commissioner passed impugned order dated 17.01.2024 (Annexure-A15) treating the period of suspension from 20.01.2008 to 19.07.2009 as period of suspension and from 25.03.2015 the date of dismissal till the superannuation of the petitioner on 30.06.2017 as "dies non" in terms of Rule 8(14)(A) of KCSRs. Questioning the said order, the petitioner was before the Tribunal in the above stated Application No.963/2024. The Tribunal by impugned order dated 20.08.2024 partly allowed the Application of the petitioner directing the State to treat the period of suspension and the period during which the petitioner was out of service as on duty and to grant all consequential benefits except the backwages. Aggrieved by the said portion of the petitioner is before this Court in this writ petition.

5. Learned counsel Sri.Keshav Chandra.S.P., for petitioner would submit that the order of penalty of

imposing withholding entire pension permanently was allowed by the Tribunal by order dated 08.03.2022 in Application No.5707/2019 with a further direction to the respondents to pay all consequential including financial benefits. Learned counsel further submits that the said order is confirmed by this Court in W.P.No.4662/2023 filed by the respondent-State. It is his submission that when the Tribunal has granted all consequential benefits, the authorities could not have restricted the suspension period as suspension and to treat the period during which the petitioner was out of service as "dies non".

6. Learned counsel for the petitioner referring to Rule 99A of KCSRs would submit that the petitioner would be entitled for full backwages and to treat the period of suspension as 'on duty'. Learned counsel would submit referring to Rule 99A of KCSRs that when the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court with a further direction to

grant all consequential benefits, such Government servant would be entitled for all financial benefits, including full pay and allowances. Thus, he would pray for allowing the writ petition.

7. Per contra, learned Additional Government Advocate Sri.Vikas Rojipura would submit that the Tribunal has not granted all financial benefits, as such, Rule 99A of KCSRs would have no application to the facts of the present case. Further, learned Additional Government Advocate would submit that the Tribunal under impugned order has allowed the Application of the petitioner partly and granted relief to count the period of suspension and period during which the petitioner was out of service for pension and pensionary benefits except backwages. Therefore, the petitioner cannot have any grievance. Thus, he would pray for dismissal of the writ petition.

8. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition papers,

we are of the considered view that in terms of Rule 99A(3) of KCSRs, the petitioner would be entitled for treating the period of suspension from 20.01.2008 to 19.07.2009 as duty period and also to treat the period during which he was out of service i.e., from 25.03.2015 to 30.06.2017 the date of superannuation as 'on duty' and the petitioner would be entitled for full pay and allowances.

9. Rule 99-A(1) to (3) reads as follows"

> *"**99-A.** (1) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by a Court of Law and such Government servant is reinstated without holding any further enquiry, the period of absence from duty shall be regularised and the Government servant shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any, of the Court.*
>
> *(2) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court solely on the ground of non-compliance with the requirements of clause (1) or clause (2) of Article 311 of the Constitution and where he is not exonerated on merits, the pay and*

allowances to be paid to the Government servant for the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be and the date of reinstatement shall be determined by the competent authority and the said period shall be regularised, in accordance with the provisions contained in sub-rules (4), (5) and (7) of Rule 99.

(3) If the dismissal, removal or compulsory retirement of a Government servant is set aside by the court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be and the date of reinstatement shall be treated as duty for all purposes and he shall be paid for the period the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be."

The above Sub-Rule (1) makes it clear that when dismissal, removal or compulsory retirement of a

Government servant is set aside by a Court of Law and when such Government servant is reinstated without holding any further enquiry, further benefits would depend on the directions, if any, of the Court. Sub-clause (3) of above makes it further clear that when the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, shall be treated as duty for all purposes, and such Government servant shall be paid for the said period full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsory retired or suspended.

10. In the instant case, the petitioner was initially dismissed from service, which was set aside by the Tribunal order dated 06.04.2017 in Application No.1046/2015, with

a further direction to consider the reply of the petitioner and to pass appropriate orders in accordance with law. Thereafter, the authorities passed Government order dated 20.03.2019 withholding entire pension of the petitioner permanently, which order was the subject matter of Application No.5707/2019 and the Tribunal by order dated 08.05.2022 set aside the order dated 20.03.2019 on merits with a further direction to pay all consequential including financial benefits. The said order is confirmed by this Court in W.P.No.4662/2023 dated 23.03.2023.

11. When the Tribunal directed to pay all consequential including financial benefits, the respondent-authorities could not have restricted or treated the period of suspension as suspension and the period during which the petitioner was out of service as "dies non". In terms of Sub-Rule (1) of Rule 99-A of KCSRs, if there is direction from the Court, the order shall be passed treating the period as directed by the Court under Sub-Rule (3) of Rule

99-A of KCSRs. When the Application is allowed in *toto* on merits, the entire period during which such Government servant was out of service shall be treated as 'on duty' and such Government servant shall be entitled for full pay and allowances. The Tribunal failed to notice the earlier order of the Tribunal dated 08.03.2022 in Application No.5707/2019 wherein the Government order dated 20.03.2019 withholding entire pension permanently was set aside with consequential including financial benefits. Further, the Tribunal also failed to properly appreciate Rule 99-A of KCSRs in its proper perspective.

12. The respondent – State Authorities made the petitioner to approach the Tribunal and this Court repeatedly for consequential benefits even after the direction of the Tribunal to grant all consequential benefits was confirmed by this Court. The petitioner was entitled to all the benefits immediately in terms of the order dated 08.03.2022 in Application No.5707/2019 passed by the

Tribunal. Hence, we deem it appropriate to award interest of 5% p.a., on the arrears of pay and allowances and all other financial benefits till the date of payment.

13. In the above circumstances, the following:

ORDER

a) Writ petition is allowed.

b) The respondents are directed to treat the period of suspension of the petitioner i.e., from 20.01.2008 to 19.07.2009 as 'on duty' and the period during which the petitioner was out of service i.e., 25.03.2015 the date of dismissal to the date of superannuation i.e., 30.06.2017 as 'on duty' and pay full pay and allowances for the above periods.

c) The petitioner would be entitled for the above backwages and other financial

benefits with interest at the rate of 5% p.a., in terms of the Government order dated 22.02.2022 in respect of payment of interest.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 13