



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 29<sup>TH</sup> DAY OF FEBRUARY, 2024**

**PRESENT**

**THE HON'BLE MR JUSTICE K.SOMASHEKAR**

**AND**

**THE HON'BLE MR JUSTICE RAJESH RAI K**

**WRIT PETITION NO. 26438 OF 2023 (S-KSAT)**

**BETWEEN:**

SRI. CHIKKALINGE GOWDA,  
AGED ABOUT 47 YEARS,  
S/O DODDANINGEGOWDA,  
APC 301(AHC 101) WORKING AT CAR,  
MYSURU, CITY MYSURU, R/AT NO.134,  
GANGARAHUNDI, N.K,  
HALLI POST, MYSURU TALUK,  
MYSURU DISTRICT-570 026.

...PETITIONER

(BY SRI. KUMAR J.C, ADVOCATE)

Digitally signed by  
K S RENUKAMBA

Location: HIGH  
COURT OF  
KARNATAKA

**AND:**

1. THE STATE OF KARNATAKA,  
REP. BY ITS SECRETARY,  
HOME DEPARTMENT,  
M.S. BUILDING, BENGALURU-560 001.
2. THE DIRECTOR & INSPECTOR GENERAL  
OF POLICE, NRUPATHUNGA ROAD,  
BENGALURU-560 001.
3. THE POLICE COMMISSIONER,  
MYSURU CITY,  
MYSURU-570 001.



4. THE DEPUTY COMMISSIONER OF POLICE,  
CITY ARMED RESERVE POLICE,  
MYSURU CITY, MYSURU-570 001.

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1 TO R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO a)ISSUE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE ORDER OR DIRECTION OR A WRIT IN ANY NATURE FOR QUASHING THE IMPUGNED ORDER DATED 26/05/2023 PASSED BY THE LEARNED KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT BENGALURU IN APPLICATION NO.2039/2022, AS PER ANNEXURE-A AND ALSO THE ENDORSEMENT DATED 17/04/2018 ISSUED BY THE 3RD RESPONDENT DATED 17/04/2018 VIDE NO.STAFF(3)/(1)/2017-18 AS PER ANNEXURE-Q.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, **RAJESH RAI K, J.**, MADE THE FOLLOWING:

**ORDER**

Learned AGA is directed to accept notice for respondent Nos.1 to 4.

2. The petitioner, in this writ petition, has challenged the legality and correctness of the order passed in Application No.2039/2022 dated 26.05.2023 by the Karnataka State Administrative Tribunal, Bangalore (for short 'KSAT'), wherein the KSAT dismissed the application filed by the petitioner.



3. The facts that are apposite from the record, which are necessary for disposal of this writ petition, are as under:

The petitioner was recruited as Armed Police Constable (APC) on 07.11.1985. By virtue of bifurcation of zones from Mysore District to Mysore City in the year 1990, the petitioner was sent to Mysore City Zone on 31.10.1985. After long deliberation with the higher authorities, he was re-transferred to Mysore City Range on 26.03.1996. In the seniority list pertaining to the cadre of APC, he was entitled to place in Mysore City Range showing from the date of initial appointment i.e., 07.11.1985. However, ignoring the same, his seniority has been fixed from the date he returned to Mysore City Police on 26.03.1996, for which there has been no request from the petitioner. Hence, according to the petitioner, he has been denied his legitimate right of considering his case for promotion as Armed Head Constable (AHC) and in the meanwhile, many of his juniors have been promoted without considering his request for promotion. Hence, the petitioner claimed fixation of his seniority in the cadre of APC as on 07.11.1985 and not as on 26.03.1996. Accordingly, he submitted a detailed representation on 05.12.2012 to the respondents' authority



requesting to rectify his pay and for grant of promotion. He also referred the order of this Court in W.P.No.48963/2012 dated 11.06.2013, wherein this Court granted similar relief to the other aggrieved parties. However, by communication dated 26.09.2014 to the DGIG, the State Government has clarified that, the benefit of Government Order dated 05.04.2010 should be extended on completion of 18 year of service though it may not be application for time bond promotion and the same is followed by the communication of the Assistant Administrative Officer, Office of the State Establishment and Appeal Department of the Office of DGIG, to all the Police Commissioner, Director, DPC and to all the Superintendents of Police of the Districts, Assistant Inspector General of Police etc., on 18.12.2014. Accordingly, the petitioner was extended the benefit of fixation of pay in the cadre of APC on 11.03.2014 and later, he was promoted to the cadre of AHC on 10.03.2016. However, he was deprived of the benefit of promotion retrospectively taking into account his date of initial appointment as many as his juniors have been promoted to the cadre of Head Constable much earlier to him. Hence, he submitted a representation on 13.01.2018 and the



respondents' authority issued an endorsement dated 17.04.2018 stating that he shall be considered for promotion on the basis of seniority as on 26.03.1996 and not from the date of his initial entry into service. Subsequently, though he has completed more than 18 years of service, as per the Government Order dated 05.04.2010, he has not been considered for promotion although many of his juniors have been promoted to the next higher cadre with all consequential and monitory benefits flowing therefrom. The Government Order dated 05.04.2010 mentions about granting of promotion to 2396 Head Constables and these posts will be upgraded as Head Constable with certain conditions mentioned therein. Hence, the petitioner approached the KSAT seeking to quash the endorsement dated 17.04.2018.

The KSAT, after considering the arguments advanced by both the parties so also after assessment of the documents placed before it, dismissed the application filed by the petitioner. The legality of the said order is challenged under this writ petition.

3. We have heard the learned counsel for the petitioner so also learned AGA for the respondents-State.



4. Learned counsel for the petitioner would vehemently contend that the KSAT erred while passing the impugned order by not considering the effect of the order of this Court in W.P.No.48963/2012. As per the order of this Court, the claim of the petitioner has to be considered from his date of appointment i.e., as on 07.11.1985 for the purpose of determination of seniority and not from the date of mutual transfer of the petitioner to Mysore City. He would further contend that the petitioner having completed more than 18 years of service as required under Government Order dated 05.04.2010, he should be atleast considered for such promotion on the basis of completion of number of years of service which would necessarily be from the date of entry into service on 07.11.1985 by which he would completing 18 years of service on 07.11.2003. The mutual transfer cannot be considered to be a transfer on request so also to apply Rule 26 of the Karnataka Government Servants' (Seniority) Rules, 1957 (for short 'Rules 1957'). Therefore, the respondents cannot deny the benefit of seniority from the date of order of appointment of the petitioner. In order to buttress his arguments, he relied on the judgment of this Court in the case



of ***Sri Krishna vs. State of Karnataka and others*** in  
***W.P.No.7924/2020 (S-KAT) Connected with***  
***W.P.No.13315/2021 (S-KSAT) disposed of on***  
***03.07.2023.***

5. *Per contra*, learned AGA would submit that as per Rule 6 of Rules 1957, seniority of persons transferred on their own request, will be shown below all the officers borne on that class or grade of service and since the petitioner's transfer was on his own request, his seniority is fixed as per Rule 6 of the Rules 1957. The petitioner was considered and promoted as AHC by order dated 10.03.2016 and his seniority has been reviewed and date of promotion has been considered with retrospective effect from 26.09.2015 and accordingly, his seniority is fixed. According to learned AGA, the contention of the petitioner to accord promotion as per the Government Order dated 05.04.2010, which is a special scheme for stagnated Police Constables for 18 years and upgrading the Police Constables, cannot be considered as he was already promoted on 26.09.2015. He would also contend that the petitioner approached the authority after lapse of 13 to 14 years as he already got promotion on 26.09.2015 and he did



not submit any objection to the seniority list to the post of APC and AHC and as such, the KSAT has rightly dismissed the claim of the petitioner instead, he challenged the said order after lapse of so many years based on the judgment rendered by this Court in W.P.No.48963/2012 decided on 11.06.2013. Accordingly, the learned AGA prays to dismiss the petition both on merits as well as on the ground of delay and laches.

6. Having heard the learned counsel for respective parties, the only point that would arise for our consideration is:

*"Whether the order passed by the KSAT in Application No.2039/2022 dated 26.05.2023 suffers from any perversity and requires interference by this Court?*

7. On careful perusal of the impugned order passed by the KSAT so also the documents placed by the learned counsel for the petitioner, the petitioner has challenged the endorsement dated 17.04.2018 based on the Government Order bearing No.OE 297 POCE 2009 dated 05.04.2010. As per the said order, the promotion shall be given from the post of Police Constables to the post of Head Constables who are stagnated for 18 years and the scheme was to accord



promotion on completion of 18 years of service. It is also made clear in the said order that it is a special scheme by upgrading as many as Police Constables, who have put in more than 18 years of service. The petitioner was initially appointed as APC on 07.11.1985 in Mysore District Unit and thereafter, on his request, he was transfer to Mysore City Unit on 26.03.1996. Annexure-A14 to the writ petition dated 17.04.2018 reads as under:

"ಉಲ್ಲೇಖಿತ ತಮ್ಮ ಮನವಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು. ಸೇವಾಪುಸ್ತಕ ಪರಿಶೀಲಿಸಲಾಗಿ ನೀವು ದಿನಾಂಕ: 7.11.1985 ರಲ್ಲಿ ಅವಿಭಾಜಿತ ಮೈಸೂರು ಜಿಲ್ಲೆಯಲ್ಲಿ ಎಳಿಸಿ 419 ಹುದ್ದೆಗೆ ಸೇರಿದ್ದು, ನಂತರ ನಿಮ್ಮ ಪ್ರಾರ್ಥಿತ ಕೋರಿಕೆ ಮೇರೆಗೆ ಸೇವಾ ಜೋಷ್ಟೆ ಬಿಟ್ಟು ಕೊಡುವ ಆಧಾರದ ಮೇಲೆ ಹಾಗೂ ಪ್ರಧಾನ ಕಣ್ಣೆರಿ ಆದೇಶ ಸಂಖ್ಯೆ: 367/ಸಿಬ್ಬಂದಿ-4/95-96 ದಿನಾಂಕ 1.3.96 ರ ಅನ್ವಯ ಸೇವಾ ಜೋಷ್ಟೆ ಬಿಟ್ಟು ಕೊಡುವ ಆಧಾರದ ಮೇಲೆ ಕೀಳಾರ್, ಮೈಸೂರು ಜಿಲ್ಲೆಯಿಂದ ಸಿಳಾರ್, ಮೈಸೂರು ನಗರಕ್ಕೆ ವರ್ಗಾವಳೆ ಮಾಡಲಾಗಿದೆ. (ಸೇವಾ ಜೋಷ್ಟೆ ಬಿಟ್ಟು ಕೊಡುವ ಬಗ್ಗೆ ಲಿಖಿತ ಮನವಿಯನ್ನು ಸಹ ಸಲ್ಲಿಸಿರುತ್ತೀರಿ). ನಿಮ್ಮ ಜೋಷ್ಟೆಯನ್ನು ಮೈಸೂರು ನಗರದಲ್ಲಿ ಕರ್ತವ್ಯಕ್ಕೆ ವರದಿ ಮಾಡಿದ ದಿನಾಂಕ 26.3.96 ರಿಂದ ಪರಿಗಳಿಸಿದ್ದು, ಕ್ರಮಬದ್ಧವಾಗಿರುತ್ತದೆ ಮತ್ತು ಜೋಷ್ಟಿನಾನುಸಾರ ನಿಮ್ಮನ್ನು ಮುಂಬಡಿಗೆ ಪರಿಗಳಿಸಲಾಗುವುದು."

8. On perusal of the above, it is clear that the petitioner was transferred to Mysore only based on his request and also with his consent to give up the service seniority. To that effect, he submitted a written representation to the Commissioner. That being the scenario, after lapse of 13 to 14



years, he submitted the representation for retrospective promotion to the cadre of AHC in Mysore City on the basis of his initial date of entry into service i.e., on 07.11.1985. As per Rule 6 of Rules 1957, the seniority of a person transferred on his own request will be placed below all the officers in the seniority list borne on the class or grade of service on or before the date of transfer. Admittedly, the petitioner has not served in a single unit without any promotion for more than 18 years.

9. Though the learned counsel emphasis the order passed by the co-ordinate Bench of this Court in W.P.No.7924/2020 (S-KAT) C/w W.P.No.13315/2021 (S-KSAT), the facts of this case are totally stand in a different footing since, there is no such inordinate delay in approaching the KSAT by the petitioner in the said case. Whereas in the case on hand, the petitioner has challenged the seniority list after lapse of 13 to 14 years. As such, in our considered view, the KSAT has rightly arrived at the conclusion that the petitioner has not made out any good grounds to interference with the endorsement dated 17.04.2018.



10. In view of the above discussion, we answer the point raised above in the negative and proceed to pass the following:

**ORDER**

i) The writ petition, being devoid of merits, is ***dismissed***.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

VM  
List No.: 1 Sl No.: 18