

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 7561 OF 2023**

**M.S. RAMESH & ORS.**

**Appellant(s)**

**VERSUS**

**STATE OF KARNATAKA & ORS.**

**Respondent(s)**

**WITH**

**CIVIL APPEAL NOS. 7562-7563 OF 2023**

**B. S. MAHABALESHWARA AND ORS. ETC.**

**Appellant(s)**

**VERSUS**

**STATE OF KARNATAKA & ORS. ETC.**

**Respondent(s)**

**WITH**

**CIVIL APPEAL NO. 7564 OF 2023**

**PRAKASH H.N. AND ORS.**

**Appellant (s)**

**VERSUS**

**STATE OF KARNATAKA & ORS.**

**Respondent(s)**

**WITH**

**CIVIL APPEAL NO. 7565-77 OF 2023**

**MADHAVA P. KUSHTAGI**

**Appellant (s)**

**VERSUS**

**STATE OF KARNATAKA & ORS. ETC.**

**Respondent(s)**

**ORDER**

The present appeals arise out of the common impugned order dated 19.06.2012 passed by the Division Bench of High Court of Karnataka (Bengaluru Bench) in a batch of Writ Petitions, whereby order dated 24.10.2008 passed by the Karnataka Administrative Tribunal (hereinafter referred to as '**Tribunal**') was put to challenge.

The Tribunal vide the said order struck down certain provisions contained in "Karnataka Employment Training Service (Craftsman & Apprenticeship Training) (Recruitment) Rules, 1998" (hereinafter referred to as '**1998 Rules**') so far as it provided for promotion 'by way of transfer' of employees having degree in Engineering along with three years of working experience in cadre of 'Training Officers' and cadres below<sup>1</sup>, to the post of 'Principals Grade-II/Vice Principals/Assistant Directors/Assistant Apprenticeship Advisor' (hereinafter referred to as '**promotional posts**') to the extent of 33-1/3<sup>rd</sup> per cent of the total vacancies to be filled by transfer. Earlier, the said promotions were governed by "Karnataka Employment & Training Service (Craftsman & Apprenticeship Training) (Recruitment) Rules, 1985" (hereinafter referred to as '**1985 Rules**') and were superseded by the 1998 Rules. In a nutshell, the whole controversy revolves around these 1998 Rules,

<sup>1</sup> Assistant Training Officers and Junior Training Officers.

whereby the State Government redesignated certain posts, including 'Group Instructors' to 'Training Officers' etc. and further provided for promotion of those employees already working in the redesignated cadre of 'Training Officers' and cadres below having degree in Engineering to promotional posts as mentioned above.

Aggrieved, the Respondents who were working as 'Training Officers' as per 1998 Rules, assailed the vires of 1998 Rules to the aforesaid extent on the ground that it would adversely affect their seniority. They further contended that as per the 1998 Rules, the persons who are working as juniors to original applicants in the cadres below and have a degree of Engineering along with three years of experience, they would become eligible for direct promotion to the promotional posts by way of transfer and hence, they would overtake the original applicants who have been serving for long as 'Training Officers'. For ready reference, the prayer in the Original Application is reproduced below –

*“6. Reliefs sought for:-*

*In view of the facts mentioned in para-3 above, the Applicants pray for the following reliefs:-*

*(i) To strike down the impugned provision in respect of the Post of Principal Grade-II/Vice-principal/Assistant Director (Training)/Assistant Apprenticeship Adviser which is occupied below :*

<p>33 - 1/3% by transfer from the cadre of Training Officer. If no, suitable person in the cadre of Training Officer is available for transfer, by transfer from the cadre of Asst. Training Officer. If no suitable person in the cadre of Asst. Training Officer is available for transfer, by transfer from the cadre of Junior Training Officer.</p>	<p>III. FOR TRANSFER:- Must be holder of a degree in Engineering in Mech. or Electrical or Automobile Electronics or Telecommunications or Instrumentation or Computer Engineering or possess equivalent qualification as prescribed for direct recruitment. The transfer shall be on the basis of seniority in the cadre of</p> <ol style="list-style-type: none"> <li>1. Training Officer or</li> <li>2. Asst. Trg. Officer or</li> <li>3. Junior Training Officer as the case may be in that order,</li> <li>4. Must have put in a teaching experience of not less than three years in Government Industrial Training Institutes.</li> </ol>
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*ii) To issue a direction to the respondents to fill up the entire quota of 66 2/3% excluding the quota reserved for direct recruitment by promotion on seniority-cum-merit from the cadre of Training Officers; and*

*iii) To pass such other order or direction as the Hon'ble Tribunal deems fit in the facts and circumstances of the case including an order forward of cost."*

The Tribunal partly allowed the original applications vide order

dated 24.10.2008 and struck down 1998 Rules to the extent it provided for promotion to the promotional posts to 1/3<sup>rd</sup> extent by way of transfer. The Tribunal held as under:-

“

**ORDER**

- (i) *The Applications are partly allowed.*
- (ii) *The provision relating to the method of recruitment to the cadre of Principal Grade-II/Vice Principal/Assistant Director (Training)/Assistant Apprenticeship Advisor in the Karnataka Employment & Training Service (Craftsman & Apprenticeship Training) (Recruitment) Rules, 1998 to the extent it provides for promotion to the extent of 33 – 1/3% percent by transfer from the cadre of Training Officers and down below cadres, is struck down.*
- (iii) *However, it is open for the Rule-making Authority to make necessary amendments to the 1998 Rules bearing in mind the Equality Clause as enshrined in Articles 14 and 16 of the Constitution of India.”*

The aforesaid order was challenged before the High Court by the aggrieved persons as well as the State Government vide bunch of Writ Petitions, which were decided vide common impugned Judgment dated 19.06.2012. The relevant paras of the impugned Judgment are reproduced below:-

*“18. In the instant case, the facts are not in dispute. The applicants are all Diploma holders, who joined the services as Junior Instructors. Thereafter, they were promoted to the next higher cadre ‘Senior Instructor’. Thereafter they are promoted to the cadre of Group Instructors. So, there are three cadres which*

one has to pass through before he is considered to the post of Principal Grade II. 1985 Rules provided for 50% post being filled up by direct recruitment and 50% post by way of promotion. Now in the amended Rules, another feeder cadre is constituted. Persons who are working as Junior Training Officers with pay scale of Rs.1520-2900, Assistant Training Officers in the pay scale of 1720-3300 and Training Officers with pay scale of Rs.1900-3700 are grouped into one category for promotion to the post of Principal Grade II, provided they possess a Degree in Engineering. Therefore, in the cadre of Training Officers, we have two sub-cadres – (1) who are Diploma Holders who are eligible for being promoted as Principal Grade II and (2) another cadre on the basis of a Degree in Engineering. Whether a person possesses a Degree in Engineering or Diploma in Engineering, if he is in the cadre of Training Officer, both of them are eligible to be promoted. There is no grievance on that score.

19. The grievance is, persons who are working in the lower cadre, i.e., as Assistant Training Officer with pay scale of Rs.1720-3300 and persons who are working as Junior Training Officer with pay scale of Rs.1520-2900, if they possess Degree in Engineering, they are also eligible for being considered for promotion to the post of Principal Grade II. It is here there is an attempt to amalgamate three different cadres with three different pay scales, as one cadre. In other words, a person who is working as Junior Training Officer without working in the cadre of Assistant Training Officer and Training Officer is also eligible to be promoted directly as Principal Grade II. Similarly, a person who has worked as Assistant Training Officer without working as Training Officer is eligible to be promoted as Principal Grade II. The result is double and triple promotion, i.e., without working in the cadres immediately below cadres, a person is promoted to the higher cadre. This is the anomaly,

*which is brought about by this amendment. The justification for this anomaly is that it applies only to persons who have got a Degree in Engineering, as they have got a better qualification and as they are stagnated in these junior cadres, now an avenue is open to them to improve the efficacy of the system.*

*19 (sic). As held by the Apex Court in the case of Triloki Nath Khosa, on the basis of educational qualification, classification is permissible. Persons who are not holding the said qualification can be denied promotion on the ground of efficiency. In the instant case, a Diploma Holder as well as Engineering Graduate both are eligible for promotion. Therefore, it is not a case where on the basis of educational qualification one is prevented from being considered for promotion. On the contrary, on the basis of educational qualification, a person who is not in the immediate lower cadre, who is very much junior to the persons who are working in the lower cadre are considered for promotion on the basis of educational qualification, which is impermissible. It is contrary to Article 14 and 16 of the Constitution. When Engineering graduation is not the qualification prescribed for the post of Junior Training Officer and merely because a person who possess that qualification secures employment in the lower cadre by virtue of his educational qualification, he cannot overtake his seniors in the hierarchy and he cannot be promoted to the post of Principal Grade II at the cost of the persons who are in the cadre of Training Officers. The argument is, the persons who are in the cadre of Training Officers with Diploma are not denied promotion. No doubt they are not denied promotion, but by reducing the percentage from 50% to 33 – 1/3<sup>rd</sup> per cent, their chance of promotion is considerably taken away. But this accelerated promotion of junior-most officers would certainly deny promotion to sizable number of persons who are working as Training Officers which is discriminatory and there is no*

*nexus, which is achieved by such accelerated promotion. This is precisely the reason given by the Tribunal for striking down only that particular Rule which is arbitrary and unreasonable. We do not see any justification to interfere with the well-considered order passed by the Tribunal. Therefore, we do not see any merit in any of these writ petitions. Accordingly, these writ petitions are dismissed.”*

On filing the Special Leave Petitions before this Court, limited notice was issued on 28.09.2012. The said order is also relevant and therefore, reproduced as thus: -

*“Prima facie we are of the opinion that even though there can be no justification for carving out a quota for degree holders in the two cadres below the cadre of Training Officers, there would be no impediment in creating a quota within the same cadre. Issue notice restricted to the question as to whether the quota provided by the management under the Karnataka Employment & Training Service (Craftsmen and Apprenticeship Training) Recruitment Rules, 1998, could be protected so far as it gives certain number of posts to degree holders within the same cadre. All those persons who are degree holders in the feeder cadre of the Training Officers shall not be reverted in the meantime.”*

The above order reveals that this Court had directed that only the persons who are degree holders in the feeder cadre, i.e. Training Officers, shall not be reverted in the meantime. It is further undisputed that even after the order passed by the Tribunal and the High Court striking down the 1998 Rules to the extent of 33-1/3<sup>rd</sup> per



*cent* the Government issued the seniority list keeping the persons who derived the benefit of the 1998 Rules as senior to the Respondents or the intervenors.

Therefore, some of them had filed the Original Application and thereafter approached the High Court wherein some interim orders were passed contrary to the spirit of the order of this Court dated 28.09.2012. This fact makes it clear that despite striking down of the 1998 Rules which extended the benefit of the transfer to the promotional posts to Training Officers and cadres below to the extent of 33-1/3<sup>rd</sup> *per cent*, certain employees were promoted under the garb of 1998 Rules and they are continuing on the promotional posts. In the said backdrop, we have heard learned counsel appearing on behalf of the parties at length, including the learned Senior Counsel appearing for the intervenors.

After hearing and on perusal of the provisions which are under challenge and the reasonings as given by the Tribunal and High Court in detail, particularly in Paras 18, 19 and 19(sic), we are in complete agreement with the same. Therefore, the appeals are devoid of any merit and hence, dismissed.

As far as employees, who were wrongly promoted and were given

financial benefits in pursuance to the 1998 Rules which were struck down, are concerned, it shall be open for the State Government to take a decision with respect to such benefits and pass appropriate orders in this regard.

All pending interlocutory application(s), are disposed of.

.....J.  
[ J. K. MAHESHWARI ]

.....J.  
[ SUDHANSHU DHULIA ]

**New Delhi;**  
**JANUARY 11, 2024.**

**ITEM NO.103**

**COURT NO.9**

**SECTION IV-A**

**S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS**

**Civil Appeal No(s). 7561/2023**

**M.S. RAMESH & ORS.**

**Appellant(s)**

**VERSUS**

**STATE OF KARNATAKA . & ORS.**

**Respondent(s)**

**IA No. 78064/2018 - CLARIFICATION/DIRECTION**

**WITH**

**C.A. No. 7562-7563/2023 (IV-A)  
(FOR [Application for Impleadment as Party Respondents] ON IA  
84765/2015**

**IA No. 84765/2015 - Application for Impleadment as Party  
Respondents)**

**C.A. No. 7564/2023 (IV-A)**

**C.A. No. 7565-7577/2023 (IV-A)**

**Date : 11-01-2024 These matters were called on for hearing today.**

**CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI  
HON'BLE MR. JUSTICE SUDHANSHU DHULIA**

**For Appellant(s) Mr. S.N. Bhatt, Sr. Adv.  
Mr. Sharanagouda Patil, Adv.  
Ms. Supneeta Sharanagouda, Adv.  
Ms. Jothisya Pande, Adv.  
Mr. Shirish K. Deshpande, AOR**

**For Respondent(s) Mrs. Vaijyanthi Girish, AOR**

**Mr. Ankolekar Gurudatta, AOR  
Mr. Korada Pramod Kumar, Adv.  
Mr. Rajendra Koushik A C, Adv.  
Mr. Amith J, Adv.  
Dr. M Mani Gopi, Adv.**

**Mr. Rajesh Mahale, AOR**

**Mr. Aman Panwar, A.A.G.**

## VERDICTUM.IN

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Mr. V. N. Raghupathy, AOR  
Mr. Manendra Pal Gupta, Adv.  
Mr. Shivam Singh Baghel, Adv.

Mr. Irshad Ahmad, AOR

Mr. Shailesh Madiyal, AOR  
Mr. Vaibhav Sabharwal, Adv.  
Ms. Divija Mahajan, Adv.

Mr. Chandrashekhar A. Chakalabbi, Adv.  
Mr. S.k. Pandey, Adv.  
Mr. Awanish Kumar, Adv.  
Mr. Anshul Rai, Adv.  
Mr. Abhinav Garg, Adv.  
M/S. Dharmaprabhas Law Associates, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The civil appeals are dismissed in terms of the signed order.

Pending interlocutory application(s), if any, and impleadment/  
intervention application(s) is/are disposed of.

(JAYANT KUMAR ARORA)  
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)  
BRANCH OFFICER

(Signed order is placed on the file)