

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2024

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PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE C M JOSHI

WRIT PETITION NO. 26318 OF 2023 (S-KSAT)

BETWEEN:

S.PURUSHOTHAMA,
AGED ABOUT 58 YEARS,
S/O LATE SRI. T SONNAPPA,
PERSONAL SECRETARY, CUM JUDGMENT WRITER,
O/O REGISTRAR, K S A T, 7TH FLOOR,
KANDAYA BHAVANA, K G ROAD,
BENGALURU 560 009.

RESIDING AT NO. 52, 3RD FLOOR, 2ND CROSS,
1ST MAIN ROAD, P G HALLI,
BENGALURU 560 003.

ADDRESS FOR SERVICE.
AS PER CAUSE TITLE OF THE APPLICATION,
E MAIL: SONNAPPAP@GMAIL.COM
91 9972720659

...PETITIONER

(BY SRI. S PURUSHOTHAMA., PARTY IN PERSON)

AND:

1. THE CHAIRMAN,
KARNATAKA STATE ADMINISTRATIVE TRIBUNAL,
7TH FLOOR, KANDAYA BHAVANA,
K G ROAD, BENGALURU 560 009.
2. THE REGISTRAR
KARNATAKA STATE ADMINISTRATIVE TRIBUNAL,
7TH FLOOR, KANDAYA BHAVANA, K G ROAD,
BENGALURU 560 009.

3. THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY,
D P A R, VIDHAN SOUDHA,
BENGALURU 560 001.

...RESPONDENTS

(BY SRI.RAGHAVENDRA G GAYATHRI, ADV., FOR R1 & R2;
SMT. SARITHA KULKARNI., AGA FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950 PRAYING TO SET ASIDE THE ORDERS PASSED BY THE HON'BLE KSAT IN A.NO.3564/2022 DATED 02/03/2023 AT ANNEXURE-P AND IN R.A.NO.25/2023 DATED 09/10/2023 AT ANNEXURE-R AND CONSEQUENTLY, ALLOW A.NO.3564/2022 AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS WRIT PETITION HAVING BEEN RESERVED FOR ORDER, COMING ON FOR PRONOUNCEMENT THIS DAY, **KRISHNA S. DIXIT.J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
and
HON'BLE MR JUSTICE C M JOSHI

CAV ORDER

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

Petitioner, party-in-person had filed Application No.3564/2022 calling in question the suspension order and also the punishment order, whereby two annual increments with cumulative effect have been withheld. The Karnataka State Administrative Tribunal by its order dated 02.03.2023 dismissed the same. Petitioner had moved Review Application No.25/2023 that came to be rejected on 09.10.2023.

2. Aggrieved by the above orders, petitioner is invoking the writ jurisdiction of this Court contending that: the Tribunal failed to see that he could not have been deployed to its Belagavi Bench; the Chairman of the Tribunal has no such power; the deployment order does not assure payment of TA & DA; no vacancy in the post to which he was deployed was available. Learned counsel appearing for the answering respondents, resisted the Petition making submission in justification of the impugned order and the reasons on which it has been constructed.

3. Having heard the Petitioner party-in-person and learned Panel Counsel appearing for the answering Respondents and having perused the Petition Papers, we decline indulgence in the matter for the following reasons:

3.1. Essentially, three charges were framed vide Show Cause Notice dated 05.12.2020: The first related to petitioner not reporting for duty at Belagavi Bench and that amounted to disobedience; the second related to petitioner signing the Attendance Register maintained at the Principal Bench, Bengaluru from 07.09.2020 to

11.09.2020 despite being relieved on 05.09.2020; the third charge related to disobedience of instruction of the Chairman of the Tribunal and employing rude language, which together constitute in-subordination & indiscipline. A disciplinary enquiry was held and he has been awarded a major punishment of withholding of two annual increments with cumulative effect.

3.2. The first submission of petitioner that an employee appointed to the Bangalore Bench cannot be deployed to other Benches of the Tribunal away from Bangalore, does not impress us even in the least and reasons for this are not far to seek: Firstly, section 13(1A) of the Administrative Tribunals Act, 1985 vests in the Chairman of the Tribunal the power of general superintendence over the employees. This provision introduced by way of amendment vide Act No.19 of 1986 w.e.f. 22.01.1986 reads:

"The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Chairman."

Secondly, under Karnataka Administrative Tribunal (Conditions of Service, etc) Rules, 1992, the Chairman happens to be the Appointing Authority vide Rule 3 and the Disciplinary Authority vide Rule 6. Thirdly, the position of the Chairman is pivotal in the administration of affairs of the Tribunal. In a sense, he functions as 'the Conscience Keeper of the Tribunal'. Nothing that affects his chain of command & control can be tolerated, to say the least. It is the duty of all employees & staff to scrupulously obey his administrative orders/instructions. The power of superintendence vested in the Chairman is wide and its scope is co-extensive with the requirement of the occasion. The absence of Rules in that regard, is no justification whatsoever for disobeying the deployment orders, be it transfer or deputation or otherwise. Petitioner admittedly did not obey the deployment order and thus, he committed the misconduct of dereliction of duty.

3.3. Petitioner's contention that the deployment order ought to have assured him the payment of TA & DA, when he was supposed to work at Belagavi Bench, is only

a ruse to avoid duty he was enjoined with. All deputed employees are being paid TA & DA in accordance with the extant Rules/Circulars. Petitioner himself admits before us that when he was deputed to Kalaburagi Bench for a few days way back in 2020, he was paid admissible TA & DA. That being the position, contention of the kind is liable to be rejected for want of *bonafide*, in addition to being legally untenable. His further grievance that TA & DA is being paid on a progressively diminishing scale is not substantiated before us. What is payable is decided by the extant norms and they are applicable to all the employees who are sent on deputation. Added, the subject deployment/deputation was for a short period of three months. It is only the petitioner who has been raising unjustifiable grievance, when all others have scrupulously followed the pattern.

3.4. The next submission of petitioner that as long as the deployment order posting him to Belagavi Bench is without jurisdiction, there cannot be any action for its violation, is difficult to agree with. Ordinarily, it is the

prerogative of the employer to deploy his staff suitable to the requirement of work/place unless the conditions of service otherwise provide. No such condition is notified to us. In the preceding paragraph, we have already held that the Chairman has competence to issue directions of the kind. As long as such deployment orders remain on record, so long they will have ostensible validity vide **STATE OF PUNJAB vs. GURUDEV SINGH**,¹ wherein, paragraphs 7 & 8 read as under:

'7. " ... Prof. Wade states: 'the principle must be equally true even where the 'brand' of invalidity' is plainly visible; for there also the order can effectively be resisted in law only by obtaining the decision of the Court ...: "The truth of the matter is that the Court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the Court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is, in reality, valid....."

8. It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him..."

¹ AIR 1992 SC 111,

An employee cannot sit in self-judgment as to the validity of instruction of the employer and disobey the same with impunity. An argument to the contrary would affect the interest of public administration and eventually, the public interest, as well.

3.5. The learned Panel Counsel appearing for the respondents rightly submitted that the petitioner has been found guilty of the misconduct in a properly constituted disciplinary enquiry as to the charge of disobeying Chairman's instruction to see him and of using rude language, is supported by the evidentiary material which the disciplinary authority has acted upon after taking the enquiry report and that too, after giving an opportunity of representation to the petitioner. In-subordination is a contagious malady in any employment and more particularly in public service. It spreads in exponential way affecting the hierarchy of positions and disbanding the chain of command, which eventually result into maladministration. Therefore, it cannot be viewed leniently at all.

3.6. The next contention as to invalidity of suspension order cannot be acceded to, the grave charges having been framed, more particularly when the petitioner chose to remain at Bengaluru Bench disobeying of deployment order to Belagavi Bench; further, he arrogated to himself the authority to mark his attendance at Bengaluru even after he was relieved. It is always open to an employer to keep his employee under suspension in the absence of rules to the contrary. During the suspension period, employee is paid subsistence allowance, hardly needs to be mentioned. Looking to the three charges framed against the petitioner later, it cannot be contended that suspension in contemplation of disciplinary enquiry could not have been effected. Eventually, enquiry was accomplished resulting into levy of punishment of withholding of two annual increments with cumulative effect. Therefore, the Tribunal is more than justified in denying relief to the petitioner both in the Application and in the Review Application.

4. We have looked into all aspects of the matter with religious zeal inasmuch as, an employee of the Tribunal was before us, having failed to get relief at the hands of Tribunal. As already mentioned above, charges are grave and the punishment awarded commensurates with the same. In a sense, the said punishment has been awarded with a lenient view. After all, once the charges have been held to be proved in a duly constituted enquiry and with full participation of the delinquent, what punishment should be awarded ordinarily pertains to the exclusive domain of Disciplinary Authority subject to all just exceptions into which argued case of the petitioner does not fit. The contention that petitioner's family comprising of wife & two college going children required his presence at Bengaluru only cannot be entertained, to say the least. It is common that everyone will have a family to attend to. Any deployment of the kind would cause some difficulty to the employee is also true; however, that is inevitable consequence of public employment.

In the above circumstances, this petition being thoroughly devoid of merits, is liable to be and accordingly, dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand) only payable by the petitioner to the Karnataka State Legal Services Authority, Bengaluru, within six weeks; delay if brooked, shall attract additional levy of Rs.100/- per day.

Registry is directed to send by Speed Post, a copy of this order to the Secretary, Karnataka State Legal Services Authority, Bengaluru, forthwith for information & needful action.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(C M JOSHI)
JUDGE**

Cbc/Bsv