



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 551 OF 2025 (S-RES)

BETWEEN:

1. KAMATHRAJ KANAKAGIRI.C
S/O CHANDRACHARI.A
AGED ABOUT 30 YEARS
RESIDING AT GUMBALLI VILLAGE,
YELANDUR TALUK,
CHAMARAJANAGAR DISTRICT - 571 313.

...APPELLANT

(BY SRI. BOLA VEDVYAS SHENOY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY,
VIDHANA SOUDHA,
BENGALURU - 560 001.
2. KARNATAKA LEGISLATIVE ASSEMBLY SECRETARIAT
THROUGH ITS SECRETARY,
P B NO. 5074, VIDHANA SOUDHA,
BENGALURU - 560 001.
3. VAMAN R N
S/O NARASHIVANNA, AGED MAJOR,
4. LAKSHMAN B C
S/O BHIMAPPA, AGED MAJOR,





5. SAGAR A
S/O ASHWATHAPPA, AGED MAJOR,
6. RADHIKA HANDRAL
D/O CHANDRASHEKAR HANDRAL,
AGED MAJOR,
7. JEEVAN C N
S/O NAGARAJU, AGED MAJOR,
8. PAVITHRA K P
D/O PUTTARAJU K C, AGED MAJOR,
9. T M LOKESHWARAPPA
S/O MANJAPPA, AGED MAJOR,
10. MADHU S
S/O SHIVAMURTHY, AGED MAJOR,
11. MURALIDHAR J
S/O JAGANNATHA K N, AGED MAJOR,
12. SURESHA
S/O LAKSHMAN, AGED MAJOR,

RESPONDENTS NOS.3 TO 12
WORKING AS JUNIOR ASSISTANT
C/O KARNATAKA LEGISLATIVE ASSEMBLY
SECRETARIAT,
VIDHANA SOUDHA,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. M N SUDEV HEGDE, AGA FOR R1 & R2;
SRI. VIKRAM A HUILGOL, SR. ADVOCATE FOR
SRI. SANDEEP HUILGOL, ADVOCATE FOR R7, R8 & R10;
R3, R4, R5, R9, R11, R12 ARE SERVED
AND UNREPRESENTED)

THIS WRIT IS APPEAL FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE FINAL



ORDER DATED 25.02.2025 PASSED IN WP No.5431/2025(S-RES) AND CONSEQUENTLY ALLOW THE WP No.5431/2025(S-RES).

THIS APPEAL COMING ON FOR FINAL DISPOSAL THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

This writ appeal is filed impugning the judgment and order passed by the learned Single Judge in W.P. No. 5431/2025 dated 25.02.2025 by the appellant/petitioner.

2. Petitioner was an applicant under notification bearing No. KA Vi Sa Sa/A-1/54/Ne Ne Bh Ma 1/2021 dated 26.04.2022 whereby applications were invited for making selection to the post of Junior Assistant.

3. The petitioner had applied claiming reservation under Category 2A – Rural and Kannada Medium. In the selection process for which written examination was conducted, petitioner had secured 57.5 marks. General



Merit category candidates who did not claim reservation had secured less marks than the petitioner. It appears, that only 2 posts were earmarked for Category 2A – Rural and Kannada Medium. Out of those 2 posts, one was reserved for ex-service man.

4. Petitioner was not offered appointment though he had secured more marks than the last selected candidate in General Merit category on the ground that he had claimed reservation under Category 2A – Rural and Kannada Medium.

5. When the petitioner came to know about these facts through a RTI application that he had been denied selection to the post of Junior Assistant on the ground that his claim was only against the post reserved under Category 2A – Rural and Kannada Medium, though he had secured more marks than the candidate selected under the General Merit category, he filed a writ petition challenging the appointment of respondent Nos. 3 to 12.



6. Learned Single Judge had dismissed the writ petition only on the ground that provisional select list was published on 15.02.2023 and petitioner had moved an application seeking information under the Right to Information Act only on 29.11.2024 and there was considerable delay of 1-½ years in seeking information in respect of selection and petitioner was not diligent and had slept over his right.

7. Sri. Bola Vedvyas Shenoy, learned counsel appearing for the appellant submits that as soon as the petitioner came to know about the merit list of the General Merit category candidates, he had sought information by moving an application under the Right to Information Act and there was no much delay which would have been sufficient for dismissing the writ petition.

8. He further submits, that there is no denial to the fact that the petitioner had secured 57.5 marks in the written examination and marks secured by him are more



than the marks secured by last candidate selected under the General Merit category. He submits that if the petitioner had secured more marks than the last candidate selected under the General Merit category, he should have been treated as a General Merit candidate for selection to the post of Junior Assistant. Instead of treating the petitioner in the merit list of General Merit candidates, petitioner was confined under Category 2A – Rural and Kannada Medium which is against the ratio laid down by the Hon'ble Supreme Court in the case of ***Bharat Sanchar Nigam Limited and another Vs. Sandeep Choudhary*** reported in ***(2022) 11 SC 779***.

9. Sri. M.N. Sudev Hegde, learned AGA appearing for respondent Nos. 1 and 2 does not dispute the fact that the petitioner had secured 57.5 marks in the written examination for selection to the post of Junior Assistant.

10. Heard Sri. Vikram A. Huligol, learned Senior Counsel appearing for respondent Nos. 3 to 12.



11. It is not in dispute that in view of the judgment of the Hon'ble Supreme Court in the case of ***Bharat Sanchar Nigam Limited (supra)***, petitioner's candidature should have been considered as General Merit candidate instead of confining the claim of the petitioner only against reservation under Category 2A – Rural and Kannada Medium.

12. We are therefore, of the considered view that the view taken by the respondent authorities confining the claim of the petitioner only against reservation under Category 2A – Rural and Kannada Medium was not in accordance with the law laid down by the Hon'ble Supreme Court in the case of ***Bharat Sanchar Nigam Limited (supra)***. Petitioner's candidature ought to have been considered and petitioner ought to have been treated as a candidate under the General Merit category in view of the marks secured by him in the written examination for selection to the post of Junior Assistant.



13. We are also of the view that there was no considerable delay to oust the petitioner on the ground of delay in approaching the Court. Said observation of the learned Single Judge is set aside.

14. As respondent Nos. 3 to 12 have been working and there is no fault of theirs as they have been selected and appointed by issuing appointment orders, we do not want to disturb their appointment at this point of time. However, the petitioner should also needs to be given justice inasmuch as petitioner had secured more marks than the candidate selected under the General Merit category.

15. Our view is supported by the order of the Co-ordinate Bench of this Court in W.A.No.100555/2017 c/w CCC(Civil)No.100198/2017 in the case of ***Government of Karnataka Vs. Mohammed Faruq and others*** dated 19.02.2019, wherein the Co-ordinate Bench considering the fact that the meritorious student was not been called



for interview, lost the opportunity for the post for which he is entitled. The Co-ordinate Bench in paragraph Nos.13 to 16 has held as under:

"13. Further, we also note that respondent No.1 had secured 489 marks out of 600 marks in the qualifying examination which is VII Standard. As per Annexure 'L', which is the representation made by respondent No.1 herein, the comparative marks secured by the candidates has been shown in the General Merit Category. On perusal of the same; we find that respondent No.1 herein had secured more marks than the names of other six candidates which are mentioned in the said Annexure although he did not attend the interview. Further, the last candidate appointed in II-B category has also secured lesser marks than what respondent No.1 has secured in the qualifying examination. Therefore, respondent No.1 herein had the eligibility and merit to be appointed to the post of Dalayat. Hence, we find that the learned Single Judge was right in directing the appellants to create a supernumerary post and appoint respondent No.1 to the said post. We do not find any merit in the appeal.

14. Before parting, we wish to observe that respondent No.1 could not appear in the interview held on 05.09.2012 on account of non-receipt of call letter said to have been issued by the appellant authorities. Having regard to the facts and circumstances of the case, learned Single Judge directed that a supernumerary post be created and respondent No.1 be appointed in the said post. Had respondent No.1 appeared in the interview, having regard to the marks he had secured in the qualifying examination, being 489 out of 600, there



was every possibility of respondent No.1 securing an appointment in the year 2012 itself when other candidates were appointed.

15. In the circumstances, while appointing respondent No.1 to a supernumerary post to be created by appellants herein, appellants to also consider as to whether respondent No.1 could be deemed to be appointed on the day when other candidates were appointed and if so, to take into consideration the said period for the purpose of terminal benefits only.

16. The reason for issuing the aforesaid direction is because of the merit respondent No.1 possesses as compared to the candidates who have been appointed in II-B category and also when compared to the candidates who have been appointed in the General Merit category."

16. At this juncture, learned Additional Government Advocate submits that, the Courts have no judicial review over the selection process resorted to by the Committee Members. We are alive to the situation and the law that no judicial review on the discretion of the selection process resorted to by the Committee Members. But at the same time, we are also alive to the way in which the selection process seemingly has been conducted, wherein the person with higher merit is discarded and the persons with lesser marks than him have been selected. The Hon'ble



Supreme Court in legion of cases has held that the Courts exercising their power under Article 226, exercise their power of judicial review even in the selection process, if the same is tainted and reeks with mala-fides, visible to the eye with a broad daylight, to quest the truth. However, since we have already taken a view that other respondents who have been working since four years, not to disturb their appointment at this point of time, hoping that there is no fault attributable to them.

17. As we are of the view that petitioner's candidature should have been considered against General Merit category, we allow this writ appeal and set aside the impugned judgment and order passed by the learned Single Judge in W.P. No. 5431/2025 dated 25.02.2025 and direct the Government – respondent Nos. 1 and 2 to create a supernumerary post of Junior Assistant to accommodate the petitioner and offer him appointment within two months from today. We make it clear that petitioner shall not be entitled for backwages and he will



be entitled for regular salary only from the date of his appointment. However, petitioner should be treated as in-service from the date when other candidates, i.e., respondent Nos. 3 to 12 were offered appointment letters for the purpose of service benefits. We also make it clear that the relief and direction for creating a supernumerary post of Junior Assistant has been granted considering the facts and circumstances of this case and the same shall not be considered as a precedent in future.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**