

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE S. G. PANDIT

AND

THE HON'BLE MR. JUSTICE K.V.ARAVIND

WRIT PETITION NO.15624/2020 (S-KSAT)

BETWEEN:

CHANDRASHEKAR HIREMATH
S/O GURULINGAIAH HIREMATH
AGED 66 YEARS
RESIDENT OF NO.323,
B2 BLOCK, MALLAPRABHA
NATIONAL GAMES VILLAGE
KORAMANGALA
BENGALURU-560034.

... PETITIONER

(BY SRI. K.B. MONESH KUMAR, ADV.)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF HOME
REP. BY THE ADDL. CHIEF
SECRETARY TO GOVERNMENT
HOME DEPARTMENT.
ROOM NO.222, 2ND FLOOR
VIDHANA SOUDHA
BENGALURU-560001.

2. THE REGISTRAR
KARNATAKA LOKAYUKTA
M.S. BUILDING
DR. B.R. AMBEDKAR VEEDHI
BENGALURU-560001.

3. THE ADDL. REGISTRAR OF
ENQUIRIES – 12
KARNATAKA LOKAYUKTA
M.S. BUILDING
DR. B.R. AMBEDKAR VEEDHI
BENGALURU-560001.

...RESPONDENTS

(BY SRI K.R. RAJENDRA, AGA FOR R1
SRI VENKATESH S ARBATTI, ADV. FOR C/R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 05.09.2018 BENGALURU PASSED BY THE 1ST RESPONDENT PRODUCED AT ANNEXURE-E TO THE WRIT PETITION; QUASH THE ORDER DATED 22.09.2018, PASSED BY THE 2ND RESPONDENT LOKAYUKTA PRODUCED AT ANNEXURE-G AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **27.02.2026** COMING ON THIS DAY, **S.G.PANDIT J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE K.V.ARAVIND

CAV ORDER

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

Petitioner, retired In-charge Director of Prosecution is before this Court under Article 226 of the Constitution of India, questioning the correctness and legality of the order dated 07.01.2020 in Application No.7983/2018, whereunder, the petitioner's prayer to quash order entrusting enquiry dated 05.09.2018; order nominating enquiry officer dated 22.09.2018 and Articles of Charge dated 27.10.2018 (Annexure-H), is rejected.

2. Brief facts of the case are that:

The petitioner retired from service on attaining the age of superannuation as in-charge Director of Prosecution on 30.06.2014. Subsequent to his retirement, under Government Order dated 05.09.2018 (Annexure-E), enquiry against the

petitioner was entrusted to the second and third respondent – Lokayukta under Rule 14A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. In pursuance of the said entrustment, the enquiry officer nominated by second respondent issued Articles of Charge dated 27.10.2018. Questioning the order of Entrustment dated 05.09.2018 and Articles of Charge dated 27.10.2018, the petitioner was before the Tribunal, mainly contending that the enquiry initiated against the petitioner is hit by Rule 214 of Karnataka Civil Services Rules, (KCSRs). The Tribunal under impugned order rejected the petitioner's application accepting the contention of second respondent that it is a continuing cause of action. Aggrieved by the said order passed by the Tribunal as well as questioning the Articles of Charge, the petitioner is before this Court in this petition.

3. Heard learned counsel Sri. K B Monesh Kumar for petitioner, learned AGA Sri. K R Rajendra for respondent No. 1 and Sri. Venkatesh S Arabatti, learned counsel for respondents No. 2 and 3. Perused the entire writ petition papers.

4. Learned counsel for the petitioner submits that the Government failed to appreciate that the enquiry initiated by issuing Articles of Charge dated 27.10.2018 is contrary to Rule 214 of KCSRs. He submits that the incident on which the Articles of Charge was issued to the petitioner relates to the conducting of examination to the recruitment, selection and appointment of Assistant Public Prosecutors held during 31.08.2013 and 01.09.2013. It is submitted that the petitioner retired from service on attaining the age of superannuation on 30.06.2014 whereas, Articles of Charge has been issued on 27.10.2018 in respect of an event which had taken

place between 31.08.2013 to 01.09.2013 four years prior to the initiation issuance of charge memo. Thus, he would submit that no enquiry could be instituted against the petitioner in terms of Articles of Charge dated 27.10.2018, that too for an event which had taken place 4 years prior to the date of issuance of Articles of Charge.

5. Learned counsel for the petitioner would vehemently contend that the Tribunal failed to appreciate in proper perspective, the contention of the respondents that the cause of action is a continuous cause of action. It is submitted that the incident is said to have taken place prior to the petitioner's retirement and any incident which is subsequent to the petitioner's retirement, cannot be taken into consideration for the purpose of initiation of enquiry. The contention of the second respondent –Lokayukta that cause of action is a continuous cause of action,

cannot be accepted in the light of the fact that the initiation of enquiry is in respect of the conducting of written examination for recruitment, selection and appointment of Public Prosecutors. Learned counsel would submit that Tribunal without assigning any reason, accepted the contention of the second respondent that it is a continuous cause of action, and as such, the order requires to be set aside by allowing the writ petition.

6. Learned AGA for respondent No.1 and Sri. Venkatesh S Arabatti for respondents No.2 and 3 would vehemently support the order passed by the Tribunal submitting that by taking note of the nature and gravity of the charge, the Tribunal is justified in dismissing the application challenging the Articles of Charge. Sri. Venkatesh S Arabatti learned counsel would specifically contend that the cause of action against the petitioner is a continuous cause of action

since from the date of incident, i.e., conducting examination for recruitment, selection and appointment to the post of Assistant Public Prosecutors, it continued till the issuance of appointment order, i.e. on 17.06.2014. Further, he submits that certain materials were seized from the residence of the petitioner on 30.01.2015. Therefore, he submits that the cause of action continued till 30.01.2015. As such, the initiation of enquiry by issuance of charge memo dated 27.10.2018 is within four years from the date of seizure of certain important materials from the residence of the petitioner on 30.01.2015. Further, learned counsel Mr. Arabatti would submit that the residence of the petitioner was further searched on 07.01.2016 and five unused answer booklets were found in his possession, which were seized on the same day. Further, he would submit that the second respondent

took up *suo motu* investigation under Section 7 of the Karnataka Lokayukta Act, 1984 (for short, 1984 Act') on the basis of the material placed by the Superintendent of Police, Karnataka Lokayukta. Thereafter, observation note dated 05.06.2018 was forwarded to the petitioner and the petitioner replied on 30.07.2018. Thereafter, the second respondent submitted report under Section 12(3) of 1984 Act on 21.08.2018 and subsequently, Entrustment Order was passed by the first respondent-State Government on 05.09.2018. Therefore, he submits that the sequence of events from the date of conducting the examination till the orders of appointment are issued and seizure of blank answer sheets from the petitioner's residence shall be taken note of while determining the limitation of 4 years under Rule 214(2)(b)(ii) of KCSRs. Thus, he would pray for dismissal of the writ portion.

7. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, the following points would arise for consideration:

"i) Whether the Articles of Charge dated 27.10.2018 as contented by the petitioner is contrary to Rule 214 of KCSRs?

ii) Whether the impugned order passed by the Tribunal warrants interference?"

The answer to the above points would be in the ***affirmative*** for the following reasons:

The petitioner was working as In-charge Director, Department of Prosecution and Government Litigation, in Karnataka and retired from service on attaining the age of superannuation on 30.06.2014. It is not in dispute that during his tenure as Director-in-charge, a Notification dated 16.05.2012 was issued for recruitment to the post of Assistant Public Prosecutors in the Department of Prosecution and Litigation,

Government of Karnataka. The method of selection was by competitive examination and the said competitive examination was held on 31.08.2013 and 01.09.2013. Several private complaints were filed against the petitioner and others alleging malpractice in the recruitment, selection and appointment of Assistant Public Prosecutors. The evaluation of answer scripts took place between 10.09.2014 to 10.10.2014 and subsequently, orders of appointment were issued. Further, subsequent to petitioner's retirement from service on 30.06.2014, certain materials were seized from the residence of the petitioner on 30.01.2015 as well as 07.01.2016. Based on the subsequent events, i.e., seizure of certain materials from the petitioners' residence on 30.01.2015 and 07.01.2016, learned counsel for 2nd and 3rd respondent contended that it is a continuous cause of action and the last date of the seizure i.e. on 01.07.2016 shall be taken note of for

determining the 4 years' limitation. Rule 214 of KCSRs reads as follows:

"214. (1) (a) Withholding or withdrawing pension for misconduct or negligence.-

The Government reserve to themselves the right of either withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including the service under a foreign employer and the service rendered upon re-employment after retirement.

(b) Recovery of pecuniary loss from pension:

The Government reserve to themselves the right of ordering recovery from a pension, the whole or part of any pecuniary loss caused to the Government or to a foreign employer under whom the Government servant has worked on deputation or otherwise along with interest at eight percent per annum from the

date of occurrence of pecuniary loss to government. If in any departmental or judicial proceedings, the pensioner is found guilty of grave negligence during the period of his service, including the service rendered upon re-employment after retirement: Provided that the Public Service Commission shall be consulted before any final orders are passed: Provided further that where a part of pension is withheld or withdrawn, the amount of pension shall not be reduced below the amount of minimum pension prescribed under the rules.

(2)(a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service :

Provided that where the departmental proceedings are instituted by an authority

other than Government, that authority shall submit a report recording its findings to the Government.

(b) The departmental proceedings, if not instituted while the Government Servant was in service, whether before his retirement or during his re-employment,-

- (i) shall not be instituted save with the sanction of the Government.*
- (ii) shall not be in respect of any event which took place more than four years before such institution, and*
- (iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.*

(3) No judicial proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose or in respect of an event which took place, more than four years before such institution.

(4) In the case of a Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 214A shall be sanctioned.

(5) Where the Government decided not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule,-

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government Servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date: and

- (b) judicial proceedings shall be deemed to be instituted-*
 - (i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance is made; and*
 - (ii) in the case of civil proceedings, on the date the plaint is presented in the Court]."*

A reading of the above Rule makes it abundantly clear that no enquiry against a retired Government servant could be initiated for an incident which had taken place 4 years prior to the date of institution. Further, it also makes it clear that departmental enquiry Could be initiated for an incident that had taken place while the Government Servant was in service. Any misconduct could be only during Government servant's service. Government would have no jurisdiction to enquire into any misconduct subsequent to Government servant's retirement. In

terms of Rule 213 of KCSRs good conduct would only be a precondition for payment of pension.

We have perused the Articles of Charge dated 27.10.2018. The Articles of Charge are issued to the petitioner for the misconduct committed during the conduct of main examination for the recruitment, selection and appointment of Assistant Public Prosecutors held on 31.08.2013 and 01.09.2013. The said incident has taken place prior to the petitioner's retirement and for the said misconduct, the State could have initiated enquiry subsequent to petitioner's retirement within the limitation period allowed under Rule 214 of KCSRs. Articles of Charge dated 27.10.2018 is beyond the period of 4 years from the date of initiation i.e. in respect of an event that had taken place in August and September 2013. The subsequent events, i.e., seizure of answer booklets on 30.01.2015 and 07.01.2016 from the residence of the

petitioner, cannot be an incident on which the State could initiate departmental proceedings against the petitioner. Those are the incidents that had taken place during the course of investigation in criminal proceedings. On the said incident of seizure, the petitioner may be liable for criminal proceedings and it cannot be a cause for initiation of departmental inquiry, since he is no more a Government servant as on the date of seizure i.e. on 30.01.2015 and 01.07.2016.

The word used in Rule 214 of KCSRs is "incident". The incident on which departmental enquiry is instituted against petitioner by issuance of Articles of Charge dated 27.10.2018 has taken place on 31.08.2013 and 01.09.2013, which is beyond 4 years from the date of initiation of enquiry by issuance of Articles of Charge dated 27.10.2018. The concept of continuing cause of action would have no

application to the facts of the present case. Even assuming that it is a continuing cause of action, it would only have application till his retirement i.e. on 30.06.2014. Any incident till the petitioner's retirement i.e. on 30.06.2014 could be a subject matter of departmental enquiry as permitted under Rule No. 214 of KCSRs. Events subsequent to a Government servant's retirement normally cannot be subject matter of departmental proceedings.

The Tribunal under impugned order without assigning any reason observed that Articles of Charge goes to show that it is a continuing cause of action and proceeded to dismissed the application.

8. For the reasons recorded above, we are of the considered opinion that the enquiry initiated against the petitioner by issuance of Articles of Charge dated 27.10.2018 is beyond 4 years on the date of

initiation of inquiry in terms of Rule 214 of KCSRs.

Hence, the following:-

ORDER

- i) Writ petition is ***allowed***.
- ii) Impugned order dated 07.01.2020 in Application No.7983/2018 passed by the Tribunal is hereby set aside. Consequently, Articles of Charge dated 27.10.2018 and the Order of Entrustment of enquiry dated 05.09.2018 are hereby ***quashed***.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K.V.ARAVIND)
JUDGE**

BSV
CT: bms