



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV

AND

THE HON'BLE MRS JUSTICE K.G.SHANTHI

WRIT APPEAL NO.100466 OF 2023 (S-RES)

BETWEEN:

SRI. TIPPESHI L. CHAVAN S/O L.C. CHAVAN,
AGE: 41 YEARS, RESIDING AT ESHWARNAGAR,
NEAR ESHWAR TEMPLE, RANEBENNUR,
DISTRICT. HAVERI.

- APPELLANT

(BY SRI. NEELENDRA D. GUNDE, ADVOCATE)

AND:

THE UNIVERSITY OF AGRICULTURAL SCIENCES,
KRISHINAGAR, DHARWAD.
REPRESENTED BY ITS REGISTRAR.

- RESPONDENT

(BY SRI. RAMACHANDRA A. MALI, AND
SRI. SUNIL S. KHOT, ADVOCATES)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA HIGH COURT ACT 1961, PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE ORDER DATED 12TH JULY 2013 IN WP NO.107830/2014 AND ALLOW THE WRIT PETITION AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS WRIT APPEAL COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
HON'BLE MRS JUSTICE K.G.SHANTHI



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV)

The present appeal has been filed by the petitioner in the writ proceedings calling in question correctness of the order passed in W.P. No. 107830/2014. The petitioner had challenged the resolution of the Board of Management of the respondent University dated 31.08.2013. In terms of the said resolution the Board of Management, University of Agricultural Sciences, Dharwad, while considering Item No.17 relating to recruitment to the post of Assistant Professor of Silviculture had resolved as follows.

"The Hon'ble Board went through the item and ratified the action taken by the University in rejecting the candidature of Shri Deepak M.S. for the post of Assistant Professor of Silviculture as per the procedure since he had violated the University regulations. Further, in view of the fact that the said post, among others, was notified in 2011, it was decided not to fill up the post from the reserve list and it was also decided to issue fresh notification for filling up of the said post."



The learned single judge by a detailed order had rejected the petition which is in challenge before this Court.

2. The brief facts relevant for disposal of the present writ appeal are that the respondent University had published a notification for appointment for the post of Assistant Professor of Silviculture. The said post was reserved for 'Scheduled Caste' category. The petitioner is stated to have applied for the said post and had fulfilled all relevant criteria. It is further made out from the narration of facts that the petitioner was called for interview along with other eligible candidates and in terms of the order of merit the petitioner was placed at third position. Admittedly, the notification dated 14.04.2011 at Annexure A, provided for application for the post of Assistant Professor of Silviculture, numbering one (01) post reserved for Scheduled Caste.

3. It is further made out from the facts that the Management had proceeded to appoint the first candidate in the order of merit Sri Deepak M.S. by order dated 27.02.2013. However the selection of the candidate was subsequently cancelled on the basis of suppression of facts.



The Board after having cancelled the appointment of Deepak M. S. had resolved by resolution dated 31.08.2013 not to fill up the post and had decided to issue fresh notification for filling up of the said post in terms of the resolution of 31.08.2030. The said action was challenged before the learned Single Judge.

4. The learned Single Judge while noticing the contentions of both sides had observed that Annexure-P, which was the order of merit was only a scorecard of the candidates who had appeared for the interview and the said order of merit could not be considered as a waiting list.

5. Learned Single Judge further observed that an appointment of successful candidate though was subsequently cancelled, that by itself would not give right to other candidates who were called for interview to seek an appointment as a matter of right. Further, the learned Single Judge at paragraph no. 9 of the impugned order had opined that the decision of the University to fill up the post by calling for fresh notification keeping in mind interest of



the students and standard of education in the University, could not be faulted.

6. The counsel for the petitioner has assailed the order of the learned Single Judge on various grounds and would contend that the authorities ought to have proceeded further. It is further submitted that the second candidate in the order of merit had employment elsewhere and his candidature not having been considered, the petitioner, who was at third position in the order of merit, ought to have been considered and appointment made.

7. Reliance is also placed on the order passed in WP No.103097 of 2018 by a co-ordinate Bench considering a challenge to the order of Tribunal, wherein relief was granted to a candidate, who according to the petitioner, was similarly situated.

8. At the outset, it must be noticed that the Notification at Annexure-A had invited the applications for filling-up of one post of Assistant Professor of Silviculture reserved for SC category, vide notification dated 14.04.2011. The score card of the various candidates is found at



Annexure-B. The order of merit is indicated by the rank assigned, in which the petitioner was found at the 3rd rank. Insofar as the selected candidate namely M.S.Deepak, it is not in doubt that he was given an order of appointment, but was later removed by virtue of cancellation of his selection on certain grounds on 25.05.2013.

9. It is relevant to notice that the University subsequently on 31.08.2013 had resolved that they would not fill up the post from the reserved list and it was decided to issue fresh notification for filling up of the said post. The said resolution is also in keeping with the notification of the University vide Regulation No.3, which provided that process of recruitment is required to be completed as early as possible, but not later than 18 months from the date of advertisement. Such regulation reflects a policy of the University.

10. In the present case, a candidate (Sri.M.S.Deepak) selected for the first post had forfeited his appointment by virtue of certain acts and his appointment was cancelled. If that were to be so, there would end the matter. While a



process of appointment having names in a reserve or waiting list would be alive, if the candidate eligible for any reason is disentitled to be considered for appointment. In such contingency, the candidate next in merit who is available would in normal circumstances be considered. However, the crucial fact in this case was that the candidate M.S.Deepak was selected on 27.02.2013 and later his appointment was cancelled on 25.05.2013. The time gap between his appointment and cancellation was about three months. In the case of such incidents, it cannot be stated that after the cancellation of appointment of a selected candidate, the reserved list revives. The reserved list cannot be deemed to have continued, when the earlier candidate was already appointed and there was no further vacancy.

11. Further, the order of the Division Bench relied on by the petitioner though would reveal that candidate in the reserved list was given the benefit, however, the order of the Apex Court as against said order in WP No.103097 of 2018 makes a reference to the Government Order dated 22.11.2002, which provided that if the eligible candidate was



not available, such post could be filled by male candidate in the same category and that the candidate, who was eventually extended benefit was next in the order of merit and ought to have been appointed.

12. In the present case, there is no such regulation of the University. In the absence of any such Rule, it cannot be stated that a person in a reserve or wait list had a vested right to be considered.

13. Though the learned counsel for the petitioner would submit that the post of Assistant Professor, Silviculture remains vacant, however, there is no vested right for the petitioner, who is in the order of merit at Annexure-B, which is a score card of the candidates. The observation of the Apex Court in the case of ***State of Karnataka & Others Vs. Santhosh Kumar C¹*** would also indicate that the candidate in the select list does not have a vested right to claim appointment dehors the statutory framework. The observations at paragraphs-9, 10 and 15 are extracted as under:

¹ 2026 INSC 276



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"9. The above understanding also accords with the settled principle that inclusion of a candidate's name in a select list does not by itself confer an indefeasible right to appointment. A select list makes a candidate eligible for consideration in accordance with the governing rules. It does not create a vested right to claim appointment dehors the statutory framework. In ***Shankarsan Dash v. Union of India***², this Court held that even where vacancies exist, a candidate whose name appears in the select list does not acquire an indefeasible right to appointment, unless the relevant rules so indicate. Similarly, in ***Rakhi Ray v. High Court of Delhi***³ and ***State of Orissa v. Rajkishore Nanda***⁴, this Court has held that appointments must conform to the notified vacancies and the governing rules, and that a select list cannot be operated in a manner not contemplated by the statutory scheme.

10. Tested on the touchstone of the aforesaid principles, in our considered opinion, the respondent's claim cannot be sustained. The respondent does not point to any provision in the 1997 Rules under which a candidate placed below a selected candidate acquires a right to be appointed to a post left unfilled on account of non-completion of pre-appointment formalities or non-joining. In the absence of such a provision, the mere fact that a selected candidate did not join cannot, by itself, create an enforceable right in favour of the respondent.

15. In the end, the respondent's case rests on an assumption that whenever a selected candidate does not complete the pre-appointment requirements or does not report for duty, the post must pass on to the next candidate below. Such an assumption may have held good only if the governing rules expressly so provided. In the absence of any such provision in the 1997 Rules, the respondent could claim no more than what the

² (1991) 3 SCC 47

³ (2010) 2 SCC 637

⁴ (2010) 6 SCC 777



statutory framework permitted. That framework did not confer upon him any enforceable right to appointment to the post in question."

14. As observed above, the question of giving preference for a candidate in the reserve or wait list cannot be given effect to where the post is already filled and by certain fortuitous circumstances, the appointment is cancelled at a later stage. Once a post is filled, the wait and reserve list automatically disappears. Accordingly, we find no reason to interfere with the order of the learned Single Judge and the writ appeal is ***disposed of***.

Pending applications, if any, are disposed of as not calling for adjudication.

**Sd/-
(S.SUNIL DUTT YADAV)
JUDGE**

**Sd/-
(K.G.SHANTHI)
JUDGE**

BVV/JTR
LIST NO.: 1 SL NO.: 14