



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

WRIT PETITION NO. 106139 OF 2024 (S-KAT)

BETWEEN:

1. THE STATE OF KARNATAKA,
BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF HOME,
VIDHAN SOUDHA,
BENGALURU-560 001.
2. THE DIRECTOR GENERAL OF POLICE,
K.S.R.P., BENGALURU-560 001.
3. THE DISCIPLINARY AUTHORITY & COMMANDANT,
INDIAN RESERVE BATTALION (IRB),
COMMANDANT OFFICE, MUNIRABAD,
KOPPAL DISTRICT-583 234.

... PETITIONERS

(BY SRI G.K. HIREGOUDAR, PGA)

AND:

SRI B.H. SANADI,
AGED ABOUT 51 YEARS,
OCC: WORKING AS POLICE HEAD CONSTABLE,
SPECIAL RESERVE FORCE, R/O: KHANAGAON,
TQ: GOKAK, DIST: BELAGAVI-591 344.

... RESPONDENT

(BY SRI MADANGOUDA N. PATIL, ADVOCATE)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED 06.02.2024 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI IN APPLICATION NO.10589/2023 (ANNEXURE-C TO THE WRIT PETITION) AND ETC.

THIS PETITION IS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.I.ARUN)

1. Aggrieved by the order dated 6th February 2024 passed in Application No.10589 of 2023, by the Karnataka State Administrative Tribunal, Belagavi (for short "the Tribunal"), the State has preferred the subject petition.

2. The respondent was working as a State Reserve Police Constable. He remained continuously absent from 11.01.2017 to 15.03.2022 i.e., for a period of more than five years. Hence, disciplinary proceedings were initiated against him.

3. In the disciplinary proceedings, the respondent fairly admitted that he was absent for the said period unauthorisedly. However, he contended that due to his domestic problems, he



was mentally disturbed, because of which he could not report to duty. He submitted that, his absence from duty was for the reasons beyond his control and that there was no willful absence on his part. He also submitted that in future he would promptly report to duty and discharge his functions.

4. Based on the aforementioned statements of respondent, the authorities concerned imposed the punishment of compulsory retirement against him. Aggrieved by the same, the respondent filed Application No.10589 of 2023 before the Tribunal.

5. The Tribunal, after examining the material on hand, came to the conclusion that the inquiry against the respondent herein was conducted in a fair manner and that he was heard after the recommendation made by the Inquiry Officer before imposing the punishment. However, the Tribunal concluded that, under the given facts and circumstances of the case, though the respondent was unauthorisedly absent, his absence could not be considered willful, and for that reason passed the following order:



"15. In the facts and circumstances, this application is disposed of by passing the following order:

- (i) The application is allowed.*
- (ii) The impugned order bearing No.15/ APPEALU/ 2022-23 dated 07.11.2022 passed by the 2nd Respondent vide Annexure-A20 and accordingly order bearing No. SIBBANDHI-3/ IRB/ N-6/ 164/ 2021-2022 dated 01.07/08.2022 issued by the Respondent No.3 vide Annexure-A18 are set aside.*
- (iii) The Respondents are directed to reinstate the applicant into service with immediate effect.*
- (iv) The period under unauthorized absence will be adjusted against leave available with applicant. The period from date of compulsory retirement to the date of reinstated will be regularized, but the applicant will not be entitled for any back wages. Time for compliance 6 months from the date of issue of this order."*

6. Aggrieved by the same, the State has preferred this petition.

7. The case of the State is that the fact that the respondent was absent from duty from 11.01.2017 to 15.03.2022 i.e., for a period of more than five years continuously, itself shows that there was willful absence on his



part. It is further contended that the applicant has not produced any document in support of his contention. He was neither hospitalized nor suffering from any grave injury or illness. It is submitted that it has never been the case of the respondent that he was suffering from any medical condition and the only ground for his absence, according to him, was that he had problems with his wife resulting in mental depression, because of which he remained absent. It is submitted that the police force is a disciplined force and unauthorised absence will have to be viewed seriously. It is further submitted that the Tribunal committed a grave error in not appreciating the facts properly. Hence, it is prayed that the order passed by the Tribunal be set aside and the order of compulsory retirement passed against the respondent be upheld.

8. *Per contra*, the respondent submits that except for the absence from 11.01.2017 to 15.03.2022 i.e., for a period of more than five years, there has been no blemish in his record. It is submitted that as his absence was for reasons beyond his control. He voluntarily admitted the same without contesting the allegations, in the fond hope of being continued in service, and



that he genuinely intended to serve the police force honestly to the best of his ability. It is submitted that the facts disclose that the unauthorised absence was not willful. It is also submitted that the respondent was not heard before imposing the major penalty of compulsory retirement. Reliance is placed upon the judgment of the Apex Court in the case of **Krushnakant B. Parmar Vs. Union of India & Anr.**¹, wherein at paragraph Nos.14 to 22 it has been held as under:

"14. Rule 3(1)(ii) and Rule 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964, relates to all time maintaining integrity, devotion to duty and to do nothing which is unbecoming of a Government servant and reads as follows:

"Rule 3 – General.

(1) Every Government servant shall at all times—

(i) maintain absolute integrity;

(ii) maintain devotion to duty; and

(iii) do nothing which is unbecoming of a Government servant."

15. In the case of appellant referring to unauthorized absence the disciplinary authority alleged that he failed to maintain devotion of duty and his behaviour was unbecoming of a Government servant.

¹ 2012 (3) SCC 178



16. *The question whether 'unauthorized absence from duty' amounts to failure of devotion to duty or behaviour unbecoming of a Government servant cannot be decided without deciding the question whether absence is wilful or because of compelling circumstances.*

17. *If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence can not be held to be wilful.*

18. *Absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean wilful. There may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalization, etc., but in such case the employee cannot be held guilty of failure of devotion to duty or behaviour unbecoming of a Government servant.*

19. *In a Departmental proceeding, if allegation of unauthorized absence from duty is made, the disciplinary authority is required to prove that the absence is wilful, in absence of such finding, the absence will not amount to misconduct.*

20. *In the present case the Inquiry Officer on appreciation of evidence though held that the appellant was unauthorisedly absent from duty but failed to hold the absence is wilful; the disciplinary authority as also the Appellate Authority, failed to appreciate the same and wrongly held the appellant guilty.*



21. *The question relating to jurisdiction of the Court in judicial review in a Departmental proceeding fell for consideration before this Court in M.B. Bijlani vs. Union of India and others reported in (2006) 5 SCC 88 wherein this Court held:*

"It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceeding are not required to be proved like a criminal trial i.e. beyond all reasonable doubt, we cannot lose sight of the fact that the enquiry officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

22. *In the present case, the disciplinary authority failed to prove that the absence from duty was wilful, no such finding has been given by the Inquiry Officer or the Appellate Authority. Though the appellant had taken a specific defence that he was prevented from attending duty by Shri P. Venkateswarlu, DCIO, Palanpur who prevented him to sign the attendance register and also brought on record 11 defence exhibits in support of his defence that he was prevented to sign the attendance register, this includes his letter dated 3rd October, 1995 addressed to Shri K.P. Jain, JD, SIB, Ahmedabad, receipts from STD/PCO office of Telephone calls dated 29th September, 1995, etc., but such*



defence and evidence were ignored and on the basis of irrelevant fact and surmises the Inquiry Officer held the appellant guilty."

9. It is submitted that the present case is also one of the unauthorised absence but not willful absence, and therefore the major penalty of compulsory retirement could not have been imposed on the respondent. In the light of the same, it is prayed that the writ petition be dismissed.

10. Perusal of the records shows that after the inquiry report was submitted, the respondent was indeed heard by the authorities concerned before imposing the punishment of compulsory retirement. The Tribunal also found the procedure adopted to be just, fair and reasonable, without any perversity.

11. Under the circumstances, the only question that arises for consideration is whether unauthorised absence of the respondent can be considered as a willful absence?

12. Admittedly, it is not the case of the respondent that he was suffering from any major health issues or that he was hospitalised. His only contention is that he had problems with his wife, because of which he went into mental depression and could



not attend to his duty from 11.01.2017 to 15.03.2022 i.e., for a period of more than five years. The same cannot be accepted. If not every person, at least every other person may have certain matrimonial differences. That cannot justify absence from duty for such a long period.

13. Under the circumstances, the fact that he was continuously absent from 11.01.2017 to 15.03.2022 i.e., for a period of more than five years, has to be considered as willful absence. The Tribunal erred in appreciating this fact.

14. Further, the police force is a disciplined force and unauthorised absence will have to be viewed very seriously. The authorities have considered the case of the respondent sympathetically and, instead of dismissing him from service, have imposed the punishment of compulsory retirement. This, in our opinion, is just, fair and reasonable.

15. Under the circumstances, the order of the Tribunal is liable to be set aside. Hence, the following:



ORDER

- (i) The impugned order dated 6th February 2024 passed in Application No.10589 of 2023, by the Karnataka State Administrative Tribunal at Belagavi is hereby set aside.
- (ii) The Application No.10589 of 2023 filed by respondent before Karnataka State Administrative Tribunal at Belagavi stands dismissed.
- (iii) The writ petition is allowed.

**Sd/-
(M.I.ARUN)
JUDGE**

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**