



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 200110 OF 2023 (S-PRO)

BETWEEN:

SRI JEEVAN S/O INDRAPPA,
AGED ABOUT 55 YEARS,
OCC. EST SUPERVISOR,
DEPOT NO.2,
KALYAN KARNATAKA RASTE SARIGE NIGAM
BIDAR-585401.

...PETITIONER

(BY SRI. RAVI B PATIL.,ADVOCATE)

AND:

1. THE KSRTC CENTRAL OFFICE
THROUGH ITS MANAGING DIRECTOR,
SHANTI NAGAR,
BENGALURU-560001.
2. KALYAN KARNATAKA RASTE SARIGE NIGAM
THROUGH ITS MANAGING DIRECTOR,
SARIGE SADANA, MAIN ROAD,
KALABURAGI-585102.
3. KALYAN KARNATAKA RASTE SARIGE NIGAM
THROUGH ITS DIVISIONAL CONTROLLER,
BIDAR DIVISION,





BIDAR-585401.

4. SRI. ZHARANAPPA S/O BEERAPPA
AGED ABOUT 53 YEARS,
OCC. EST SUPERVISOR
KKRT NIGAM BHALKI DEPOT,
DIST. BIDAR-585401.

...RESPONDENTS
(BY SRI.DEEPAK V BARAD, ADV FOR R1 TO R3;
SRI.ARUNKUMAR AMARGUNDAPPA, ADV FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) ISSUE A WRIT OF CERTIORARI THEREBY TO QUASH THE ENDORSEMENT DATED 26.12.2019 BEARING NO.ಈಕರಸಾ/ಬೀವಿ/ಸಿಬ್ಬಂದಿ/ಎ1/2928/2019-20 AS AT ANNEXURE-S ISSUED BY THE 3RD RESPONDENT AUTHORITY AND SAME IS REQUIRES TO BE SET ASIDE. 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT CORPORATION TO CONSIDER THE GRIEVANCE OF THE PETITIONER AS PER THE REPRESENTATION DATED 15.07.2013 AS AT ANNEXURE-N BY CONSIDERING THE PROMOTION OF THE PETITIONER TO THE POST OF ASSISTANT W.E.F. 19.10.2004 FOR ALL SERVICE BENEFITS INCLUDING THE SENIORITY, 3) PASS ANY OTHER ORDER/S OR DIRECTION/S WHICH THIS HON'BLE COURT MAY DEEM FIT TO GRANT IN THE CIRCUMSTANCES OF THE CASE.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY



ORAL ORDER

This writ petition is filed under Article 226 and 227 of the Constitution of India seeking following reliefs:

"1) Issue a writ of certiorari thereby to quash the endorsement dated 26.12.2019 bearing no. ಈಕರಸಾ/ಬೀವಿ/ಸಿಬ್ಬಂದಿ/ಎ1/2928/2019-20 as at Annexure-S issued by the 3rd respondent authority and same is requires to be set aside.

2) Issue a writ of mandamus directing the respondent corporation to consider the grievance of the petitioner as per the representation dated 15.07.2013 as at Annexure-N by considering the promotion of the petitioner to the post of assistant w.e.f. 19.10.2004 for all service benefits including the seniority,

3) Pass any other order/s or direction/s which this Hon'ble Court may deem fit to grant in the circumstances of the case."

2. Heard learned counsel for the parties.

3. Petitioner was appointed as a Junior Assistant in the respondent-corporation on 01.02.1988. The respondent No.4 was appointed as a typist in the respondent-corporation on 30.12.1997. In the seniority list



of the employees published by the respondent-corporation, in the year 2003, petitioner's name was found at serial No.128, whereas the name of respondent No.4 was found at serial No.149. It appears that after the seniority list of employees was published, the divisional controllers of the respondent-corporation were directed to fill up all the vacant posts on or before 15.11.2003. According to the petitioner, there were 17 vacant posts in the cadre of Assistant, which were required to be filled up by way of promotion. On 19.10.2004, respondent No.4 was promoted to the post of Assistant and subsequently on 29.09.2006, the respondent-corporation even promoted the remaining employees, including the petitioner to the post of Assistant, which were vacant. Thereafter, the petitioner and other aggrieved employees of the responding-corporation had submitted a representation with the prayer to consider their promotion retrospectively with effect from 19.10.2004, the date on which respondent No.4 was promoted to the post of



Assistant. The said request was rejected and an endorsement dated 09.12.2009 was issued, which was questioned by the petitioner before this Court in WP No.103720/2013, which was disposed of by this Court on 26.06.2019. In the said writ petition, after quashing the endorsement dated 09.12.2009, a direction was issued to the respondents to reconsider the petitioner's representation dated 21.05.2009, for considering his promotion with retrospective effect from 19.10.2004. Subsequently, his representation was rejected by the respondent-corporation by order at Annexure-S dated 26.12.2019. Aggrieved by the same, the petitioner is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds in the petition, submits that when the junior of the petitioner was promoted on 19.10.2004, there was no justification on the part of the respondent-corporation to deny retrospective promotion to the petitioner. He submits that under similar circumstances,



retrospective promotion has been given to some of the employees of the corporation and in support of this contention, he has referred to certain orders where a retrospective promotion was given. He submits that action of the respondents is discriminatory and therefore, prays to allow the petition.

5. Per contra, learned counsel for the respondents who has filed a statement of objection submits that there is no statutory provision which provides for retrospective promotion. He submits that an employee cannot seek promotion as a matter of right, merely for the reason that there is a vacancy. He refers to his statement of objection and submits that none of the employees in Bidar Division, where the petitioner is working have been given retrospective promotion. He submits that consideration for granting retrospective promotion to four other employees was totally different, which is explained in the statement of objections. He submits that promotion of the respondent No.4 was never questioned by the petitioner.



He also submits that respondent No.4, who belongs to Scheduled Tribe category was promoted to fill up the backlog vacancy and therefore, the petitioner cannot compare his case with that of the respondent No.4. In support of his arguments, he has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Bihar State Electricity Board and others v. Dharamdeo Das*** reported in **2024 SCC Online SC 1768** and the case of ***Union of India and Another v. Manpreet Singh Poonam and others*** reported in **(2022) 6 SCC 105**.

6. The undisputed facts of the case are, petitioner was appointed as a Junior Assistant in respondent-corporation on 01.02.1988 and the respondent No.4 was appointed as a typist in respondent-corporation on 30.12.1997. In the seniority list that was published on 05.02.2023, the petitioner's name was found in serial No.128, whereas name of the respondent No.4, was found in serial No.149. There were 17 vacant posts under the



cadre of Assistant, which were all required to be filled up by promotion.

7. It is not in dispute that the respondent No.4 belongs to Scheduled Tribe category and it is also not in dispute that there was a backlog vacancy to the post of Assistant for candidate belonging to Schedule Tribe and it is under the circumstances, respondent No.4 was promoted to the post of Assistant on 19.10.2004 and the backlog vacancy was filled up. Since the petitioner does not belong to Scheduled Tribe category, he cannot, as a matter of right, seek to fill up the post of Assistant, which was vacant by promoting him. The respondent-corporation subsequently on 29.09.2006 has considered the case of petitioner and all other similarly placed employees and has promoted them to the post of Assistant and thereby had filled up all the vacancies.

8. In the case of **Pawan Pratap Singh V. Reevan Singh**, reported in **(2011) 3 SCC 267** the Hon'ble Supreme Court has observed that seniority cannot



be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively, unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis, when an employee has not even been borne in the cadre and by doing so, it may adversely affect the employees, who have been appointed validly in the meantime.

9. In case of ***Bihar State Electricity Board and Others*** (supra), the Hon'ble Supreme Court in paragraph No.29 has observed as follows.

"29. In the instant case, records reveal that there was no vacancy to the post of Under Secretary in the appellant-Board on the said post being reduced from six to three. This step was taken by the Board due to administrative exigencies. We do not find any infirmity in the said decision. Even otherwise, assuming that there was a vacancy to the subject posts, it would not have automatically created a valuable right in favour of the respondent for claiming retrospective promotion to the next higher post. It is only when an actual vacancy arose that the respondent was granted



the benefit of accelerated promotion and that too on going through the prescribed process."

10. In the case of **Manpreet Singh Poonam and Others** (supra), the Hon'ble Supreme Court in paragraph Nos. 18 to 20, has observed as follows:

"18. A mere existence of vacancy per se will not create a right in favour of an employee for retrospective promotion when the vacancies in the promotional post is specifically prescribed under the rules, which also mandate the clearance through a selection process. It is also to be borne in mind that when we deal with a case of promotion, there can never be a parity between two separate sets of rules. In other words, a right to promotion and subsequent benefits and seniority would arise only with respect to the rules governing the said promotion, and not a different set of rules which might apply to a promoted post facilitating further promotion which is governed by a different set of rules.

19. In the present case, the authority acting within the rules has rightly granted promotion after clearance of DPC on 17.04.2012 with effect from 01.07.2011, when the actual vacancies



arose, which in any case is a benefit granted to the Respondent in Civil Appeal No.518 of 2017. In our view, this exercise of power by the authority of granting retrospective promotion with effect from the date on which actual vacancies arose is based on objective considerations and a valid classification.

20.This Court in the case of Union of India v. KK Vadhera., 1989 Supp (2) SCC 625 has clearly laid down that the promotion to a post should only be granted from the date of promotion and not from the date on which vacancy has arisen, and has observed that: (SCC P.627, para 5)

'5....We do not know of any law or any rule under which a promotion is to be effective from the date of creation of the promotional post After a post falls vacant for any reason whatsoever, a promotion to that post should be from the date the promotion is granted and not from the date on which such post falls vacant. In the same way when additional posts are created, promotions to those posts can be granted only after the Assessment Board has met and made its recommendations for promotions being granted. If on the contrary, promotions are directed to become effective from the date of the creation of additional posts, then it would have the effect of



giving promotions even before the Assessment Board has met and assessed the suitability of the candidates for promotion. In the circumstances, it is difficult to sustain the judgment of the Tribunal.”

(emphasis supplied)

11. In their statement of objection, the respondents in detail have mentioned the reason for giving retrospective promotion to some of its employees. It appears that out of the 4 employees, who were given retrospective promotion, 2 of them were not of the same cadre and their post was a statewise post, whereas the petitioner's post is a divisional cadre post. Insofar as the two candidates of divisional cadre, who were given retrospective promotion, it is stated in the statement of objections that since there was a disciplinary case pending as against them, their promotion was withheld and subject to the outcome of the disciplinary case, subsequently they were given promotion. It is also stated that the said



employees were from different division and not from Bidar division, in which the petitioner is working.

12. Learned counsel for the petitioner has failed to produce any statute, which provides for granting retrospective promotion to him. An employee cannot as a matter of right seek promotion to fill up a vacancy, only for the reason that there is a vacancy, which is required to be filled up by way of promotion. The law in this regard has been laid down by the Hon'ble Supreme Court in the cases referred to herein above. Even if some of the employees of the respondent-corporation are said to have been granted retrospective promotion, the same cannot be a ground to hold that even the petitioner is entitled for retrospective promotion, when the statute does not provide for such a promotion. The petitioner has not alleged any mala fides against the respondent-corporation for denying him retrospective promotion and on the other hand it appears that the petitioner is trying to take advantage of some orders passed by the respondent-



corporation, giving retrospective promotion to its employees for certain reasons. If any order is passed, which has no statutory backing, Courts cannot direct authorities to pass similar orders in respect of other employees.

13. Under the circumstances, I am of the opinion that petitioner is not entitled for the reliefs sought for in the petition. Accordingly, the petition is ***dismissed***.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

NJ
List No.: 1 Sl No.: 107