



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.2559 OF 2022 (S-KSRTC)

BETWEEN:

SRI SIDDARAMAIAH
S/O. LATE SRI BORAIHA,
AGED ABOUT 62 YEARS,
RETIRED ACCOUNTS SUPERVISOR,
KSRTC, KANAKAPURA DEPOT,
RAMANAGARA DIVISION,
R/AT NEXT TO NAVAGRAHA TEMPLE,
MEGALA BEEDI,
KANAKAPURA TOWN - 562 117.
BENEFITS OF SENIOR
CITIZEN NOT CLAIMED.

... PETITIONER

(BY SRI NAIK V.S., ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER,
KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
RAMANAGARA DIVISION,
B.M. ROAD,
RAMANAGARA - 562 159.

... RESPONDENT

(BY SRI B.S. SRINIVAS, ADVOCATE FOR
SRI SANJEEV B.L., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE
RECORDS RELATING TO ISSUANCE OF THE IMPUGNED ORDER
DATED 28.02.2017 PASSED BY THE DISCIPLINARY AUTHORITY OF
THE RESPONDENT VIDE ANNEXURE-E THE ORDER DATED
12.07.2017 PASSED BY THE APPELLATE AUTHORITY OF THE
RESPONDENT VIDE ANNEXURE-G AND THE ENDORSEMENT DATED





12.11.2021 ISSUED BY THE RESPONDENT VIDE ANNEXURE-K AND ETC.,

THIS WRIT PETITION COMING ON FOR FURTHER HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The present petition is preferred by the petitioner – employee seeking for the following prayers:

(a) Call for the records relating to issuance of the impugned order dated 28.02.2017 passed by the Disciplinary Authority of the respondent vide Annexure-E, the order dated 12.07.2017 passed by the Appellate Authority of the respondent vide Annexure-G and the Endorsement dated 12.11.2021 issued by the Respondent vide Annexure-K.

(b) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the impugned order dated 28.02.2017 bearing ref.No.KaRaSa:RaNaVi:ShiSha: 3150/12/453 passed by the Disciplinary Authority of the Respondent vide Annexure-E and the order dated 12.07.2017 bearing ref. No. KaRaSa:KeKa/LePa/AaKa/81/17-18 passed by the Appellate Authority of the Respondent vide Annexure-G since the same are arbitrary, illegal



and unsustainable because the same are passed without proper application of mind to the materials on record.

(c) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the impugned Endorsement dated 12.11.2021 bearing ref. No. KaRaSa/RaNaVi6/LePa/Pavati/512/2021-22 issued by the Respondent vide Annexure-K since the same is unjustified and against the orders of this Hon'ble Court

(d) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent to settle the retiral benefits to the petitioner without any illegal deductions along with interest at the rate of 18% per annum from the date of his retirement till payment and also to consider him entitled for gratuity amount without any break in service

(e) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent to restore his withheld annual increment and extend the consequential benefits thereof"



2. The petitioner herein is termed as 'employee' and the respondent as 'Corporation' for the sake of convenience.

3. Learned counsel for the employee would submit that he does not intend to assail prayer "b" seeking to quash the impugned order dated 28.02.2017 vide Annexure – E and order dated 12.07.2017 vide Annexure – G.

4. The submission is placed on record.

5. In view of the said submission by the learned counsel for the employee, prayer "b" is dismissed as not pressed.

6. Brief facts of the case are that, the employee was appointed as a Junior Assistant by the Corporation on 24.04.1987, was promoted as Assistant Accountant during the year 2005 and has served as an Account Supervisor on promotion. Articles of charges were issued against the employee on the allegation that he was responsible for the



loss of monthly passes worth Rs.6,34,000/-. On enquiry being conducted by the Enquiry Officer, the enquiry report was submitted holding that the employee was guilty of charges. Show-cause notice was issued to the employee, for which, he replied requesting the Disciplinary Authority to drop all the proceedings. The Corporation issued an endorsement to the employee to remit Rs.3,17,000/- in the Accounts Section.

7. Assailing the said endorsement, the employee preferred W.P.No.23925/2014 before this Court, during the pendency of the writ petition, the respondent-Corporation filed a memo stating that the endorsement dated 17.05.2014 has been withdrawn, based on which, the writ petition came to be disposed of.

8. After the disposal of the writ petition, the Corporation passed an order withholding the ensuing annual increment of the employee with cumulative effect and also held that the period of suspension underwent by the employee would be considered as a break in service



and that he would not be entitled for gratuity for the said period. The petitioner – employee preferred statutory appeal against the said order before the Appellate Authority, who modified the punishment holding that one annual increment be withheld for a period of six months without cumulative effect and held that the remaining portion of the punishment remains intact.

9. The employee was relieved from the service on 31.03.2021 on attaining the age of superannuation. Subsequent to his retirement, the employee was not paid his retirement benefits even after "No Due Certificate" was submitted. The employee submitted a representation bringing the same to the notice of the Corporation and requested the Corporation to release all his retirement benefits. The Corporation issued endorsement along with acquaintance roll of the establishment stating that leave encashment benefits accrued to him was Rs.5,91,349/-, but the employee is entitled for Rs.2,74,349/- after deducting Rs.3,17,000/-, aggrieved by the endorsement



issued by the Corporation, the present petition by the employee.

10. The Corporation has filed the statement of objections, *inter alia*, contending that the Appellate Authority did not pass any order as regards to recovery of loss of passes amounting to Rs.3,17,000/- from the employee and the Corporation issued endorsement dated 12.11.2021 at Annexure – K and the authorities concerned have deducted Rs.3,17,000/- from the leave encashment amount of the employee and it is stated that the deduction made by the respondent – Corporation is in accordance with law and sought for rejection of the petition.

11. Heard Sri Naik V.S., learned counsel for the petitioner – employee and Sri B.S.Srinivas, appearing for Sri Sanjeev B.L., learned counsel for the respondent – Corporation.



12. It is not in dispute that on the earlier occasion, the Corporation issued an endorsement to the employee to remit Rs.3,17,000/- and the same was assailed before this Court in W.P.No.23925/2014 and the Corporation filed a memo in the said writ petition contending that the endorsement directing the employee to remit a sum of Rs.3,17,000/- was withdrawn and accordingly, the writ petition was disposed of as having become infructuous. This being so, when the employee sought for retirement benefit, again, the Corporation issued endorsement at Annexure – K, wherein, it is intimated that a sum of Rs.3,17,000/- was deducted from the leave encashment amount on the ground that the amount is due from the employee. It is relevant to note that the endorsement was earlier issued in the year 2014 and the withdrawal of the endorsement by the management could not be sought and proceeded to recover the amount from the retirement benefit of the employee which has already attained finality.



13. The petitioner having served the Corporation for more than 35 years, retired from service on 31.03.2021 on attaining the age of superannuation, but the employee has not been granted the retirement benefit inspite of submitting several representations by the employee. On the other hand, the Corporation has issued endorsement dated 12.11.2021 informing a sum of Rs.5,91,349/- had been accrued to the benefit of employee towards leave encashment and Rs.3,17,000/- has been deducted, which was due from the employee from 2014-2015 till his retirement and the impugned endorsement has been issued vide Annexure – K. The endorsement issued by the Corporation is pertaining to the amount of Rs.3,17,000/-, which was sought to be withdrawn by the corporation and the said withdrawal of the endorsement has attained finality and the subsequent endorsement at Annexure-K pursuant to the retirement of the employment is not sustainable.



14. For the foregoing reasons, this Court is of the considered view that the impugned endorsement needs to be set aside. Accordingly, this Court pass the following:

ORDER

- (i) Writ petition is ***allowed in part.***
- (ii) The impugned endorsement dated 12.11.2021 at Annexure-K is hereby ***set aside.***
- (iii) The respondent - Corporation is directed to pay the amount of Rs.3,17,000/- to the petitioner - employee within a period of four weeks from the date of receipt of a copy of this order, failing which, the employee is entitled for interest at the rate of 10% per annum from the date of retirement, i.e., 31.03.2021 till the amount is paid to the employee.

Sd/-
JUDGE

S*