



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 21<sup>ST</sup> DAY OF JUNE, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE B M SHYAM PRASAD**

**WRIT PETITION NO. 48721 OF 2018 (S-RES)**

**BETWEEN:**

SRI G R RAJASHEKHARAPPA  
S/O PATEL RUDRAPPA  
AGED ABOUT 63 YEARS  
OCC:RETIRED ASSISTANT LIBRARIAN  
W/A BAPUJI POLUTECHNIC  
SAHABANUR  
DAVANAGERE TALUK

...PETITIONER

(BY SRI. CHANDRASHEKAR G M., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
DEPARTMENT OF HIGHER EDUCATION  
M S BUILDING  
BANGALORE-560 001  
REP BY ITS PRINCIPAL SECRETARY
2. THE DIRECTOR  
TECHNICAL EDUCATION BOARD  
PLACE ROAD  
BENGALURU-560 001





3. THE BAPUJI EDUCATION ASSOCIATION (R)  
VK COLLEGE ROAD  
DAVANAGERE-577001  
REPRESENTED BY ITS SECRETARY
4. THE PRINCIPAL  
BAPUJI POLYTECHNIC  
SHABANUR ROAD  
SHABANUR  
DAVANAGERE TALUK  
DAVANAGERE DISTRICT
5. ACCOUNTANT GENERAL (A & E)  
IN KARNATAKA  
BENGALURU-560 001

...RESPONDENTS

(BY SRI. GOPALA KRISHNA SOODI, AGA FOR R1, R2  
AND R5;

SRI. GANAPATI BHAT VAJRALLI, ADVOCATE FOR  
R3 AND R4]

THIS W.P. IS FILED UNDER ARTICLES 226 AND  
227 OF THE CONSTITUTION OF INDIA PRAYING TO  
CALL FOR RECORDS FROM THE R-3 INSTITUTION;  
QUASH THE INTIMATION/ORDER DTD20.6.2016 ISSUED  
BY THE R-2 VIDE ANNEXURE-J AND QUASH THE  
INTIMATION / ORDER DTD25.1.2018 ISSUED BY THE R-  
2 VIDE ANNEXURE-L; DIRECT THE R-1 AND 2 TO  
DISBURSE THE ARREARS OF SALARIES PERTAINING  
TO THE SUSPENDED PERIOD FROM 10.11.2005 TO  
3.10.2009 THEREBY TAKING INTO CONSIDERATION OF  
THE SAID PERIOD AS THE PETITIONER WAS ON DUTY  
IN SERVICE FURTHER ORDER TO RE-FIX THE  
PENSIONARY BENEFITS ACCORDINGLY,  
ALTERNATIVELY, DIRECT THE R-3 MANAGEMENT TO  
DISBURSE THE ARREARS OF SALARIES PERTAINING  
TO THE SUSPENDED PERIOD FROM 10.11.2005 TO  
3.10.2009 AND FURTHER DIRECT THE R-3 TO PAY THE



DIFFERENCE PENSIONARY BENEFITS IN FUTURE WITH  
CONTINUITY OF SERVICE BENEFITS.

THIS PETITION, COMING ON FOR ORDERS, THIS  
DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner, who is admittedly working as an '*Assistant Librarian*', a post admitted to grant-in-aid, has filed this petition being aggrieved by the second respondent's Orders dated 20.06.2016 [Annexure-J] and 25.01.2018 [Annexure-L]. The second respondent has issued these Orders rejecting the petitioner's request for salary and other benefits payable for the period during which he was under suspension citing the provisions of Sub-Rule [2] and [3] of Rule 99 of the Karnataka Civil Services Rules [KCSR] and opining that once the allegations are proved, the period under suspension cannot be considered for admitting the financial benefits.

2. The petitioner's grievance as against these orders are examined in the light of the following facts



after hearing Sri Chandrashekar G M, the learned counsel for the petitioner, Sri Ganapati Bhat Vajralli, the learned counsel for the third and fourth respondents, and Sri Gopala Krishna Soodi, the learned Additional Government Advocate for the first, second and fifth respondents.

3. It is undisputed that the petitioner was kept under suspension on the assertion such as, that he was disrespectful to the Principal and ultimately, on 03.10.2009 [*i.e.*, after a period of almost four years], the third respondent - the Management - has accepted the regret expressed by the petitioner and has revoked the suspension reinstating the petitioner into service. In the meanwhile, an enquiry is held, and the Enquiry Officer has filed a report stating *inter alia* that the charges against the petitioner are proved. Though this decision, which would be in the nature of recommendation is communicated to the second respondent, there is no further action.



4. The only inference from these circumstances would be that the departmental proceeding has culminated with the petitioner's reinstatement because the Disciplinary Authority has not found the petitioner guilty of charges and the second respondent has also not granted approval. If these circumstances remain undisputed, this Court must opine that the second respondent could not have rejected the petitioner's request for treating the period under suspension for all the benefits.

5. This Court must further observe that if the second respondent had any reason to believe that the conclusion of the proceedings must not end with the third respondent accepting the cause and reinstating the petitioner, it should have flagged the issue and taken appropriate decision. As such, the impugned orders must be quashed and the petitioner's grievance as against the impugned orders must be favoured. Hence, the following:



**ORDER**

- [a] The petition is allowed, and the impugned orders dated 20.06.2016 and 25.01.2018 [*Annexures - J and L*] are quashed.
- [b] The second respondent - the Director, Technical Education Board - is directed to pass appropriate orders that would enable the petitioner to avail the financial benefits during the period the petitioner was under suspension.
- [c] The petitioner is reserved with liberty to file a certified copy of this order with the second respondent within four [4] weeks from the date of receipt thereof, and the second respondent is directed to pass appropriate orders in



due compliance with the directions as  
aforesaid within three [3] months  
from the date of receipt of the  
representation.

**Sd/-**  
**JUDGE**

AN,RB