HC-KAR

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 12TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO.200804 OF 2025 (S-REG)

BETWEEN:

NABISAB
S/O SAYED SAB,
AGE: 54 YEARS,
OCC: GUN MAN,
R/O: VAIJAPUR,
TQ: ALAND,
DIST: KALABURAGI.

…PETITIONER

(BY SRI DEVARAJA, ADVOCATE)

AND:

Digitally signed by RAMESH MATHAPATI
Location: HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA
THROUGH ITS SECRETARY TO THE
GOVERNMENT DEPARTMENT OF PWD
BENGALURU – 01.

2. THE EXECUTIVE ENGINEER,
PWD KALABURAGI DIVISION,
KALABURAGI – 585 102.

3. THE ASST EXECUTIVE ENGINEER
PWD SUB DIVISION NO.2,
ALAND, DIST: KALABURAGI – 585 102.

…RESPONDENTS

(BY SRI GOPALKRISHNA B. YADAV, H.C.G.P.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT TO COMPLY THE ORDER PASSED IN WP NO.205053/2018 DATED 05.08.2021 WHICH IS AT ANNEXURE-A THE PETITIONER AS PERMANENT EMPLOYEE FROM THE DATE OF HIS INITIAL APPOINTMENT I.E. SEPT-1980 AS GUNMAN WITH ALL CONSEQUENTIAL BENEFITS AND EXTEND ALL THE BENEFITS WITH RETROSPECTIVE DATE IN THE INTEREST OF JUSTICE AND ETC.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Writ petition is filed seeking writ of mandamus directing respondents to comply with directions by this Court in W.P.no.205053/2018 disposed of on 05.08.2021 at Annexure-A and extend all consequential benefits to petitioner.

2. Sri Devaraj Kamankeri, learned counsel for petitioner submitted that petitioner was employed as Gangman by respondents on daily wages from 01.09.1980 but was illegally terminated in 1985. He approached Labour Court in Reference no.293/1998, wherein award passed on 30.06.1999 directing re-instatement. In pursuance of same, petitioner was re-instated on 31.08.2001. Thereafter, petitioner had filed W.P.no.205053/2018 seeking for mandamus directing consideration of petitioner's case for regularization of

service. Said petition was allowed directing respondents to consider if he is not otherwise ineligible for regularization. Alleging that there was no further action taken by respondents and seeking for writ of mandamus again, present writ petition is filed.

3. Learned HCGP would oppose petition.

4. Heard learned counsel, perused writ petition records.

5. I find writ petition would not be tenable for several reasons, firstly, petitioner is seeking for regularization of services under respondent which is Government. Same would fall within definition of service matters under Section 3(q) of Administrative Tribunal Act. As held by Constitution Bench of Hon'ble Supreme Court in case of ***L. Chandra Kumar v. Union of India And Others***[1], petitioner would require to approach Administrative Tribunal in first instance and cannot approach High Court directly.

6. Secondly, petitioner has already obtained direction in order at Annexure-A. If there is non-compliance, remedy is not to file another writ petition. Writ cannot be enforced by issuance of writ.

7. Thirdly, it is also seen that in communication at Annexure-C, in pursuance of direction by this Court at Annexure-A,

[1] 1997 (3) SCC 261

petitioner's claim is stated to have been considered by respondents under provisions of Karnataka Daily Wage Employees Welfare Act, 2012 and petitioner has been notified as empanelled at Sl.no.450. In pursuance of same, petitioner would be entitled to protection of tenure of service and for service benefits under provisions of said Act. Apparently, respondents have disclosed that petitioner would not be entitled for anything more. Therefore, even petitioner's contention that his case has not been considered in pursuance of direction by this Court may not be tenable.

In view of above, writ petition in present form is misconceived and is dismissed as such.

Sd/-
(RAVI V HOSMANI)
JUDGE

MSR
List No.: 2 Sl No.: 34p1-*