

[\[Karnataka Civil Services Rules\] Enquiry Against Retired Employee Cannot Be Initiated For An Event Which Took Place More Than 4 Yrs Ago: High Court](#)

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

S.G. PANDIT; J.

WRIT PETITION NO.17708/2022; 16 NOVEMBER, 2022

**ANIL KUMAR versus STATE OF KARNATAKA**

*Petitioners by Ranganath S. Jois, Advocate*

*Respondents by M.V. Ramesh Jois, AGA for R-1; H.L. Pradeep Kumar, Advocate For R-2*

**ORDER**

Heard the learned counsel Sri.Ranganatha S. Jois for the petitioners, learned Additional Government Advocate Sri.M.V.Ramesh Jois for respondent No.1 and learned counsel Sri.H.L.Pradeep Kumar for respondent No.2. Perused the writ petition papers.

2. Learned counsel for the petitioners would submit that the petitioners retired from second respondent – the Karnataka Housing Board (for short KHB) on attaining the age of superannuation on 30.06.2018 and 31.08.2020 respectively. Subsequent to their retirement, Annexure-C, Charge Memo dated 21.06.2022 is issued to the petitioners initiating enquiry in respect of an event taken place in the year 2005-06. Learned counsel would submit that in terms of Rule 214 (2) (b)(ii) of the Karnataka Civil Services Rules [for short KCSRs], Charge memo would not be maintainable and no enquiry could be initiated against a retired person in respect of an event which had taken place more than four years prior to institution of enquiry against retired Government Servant. Thus, he submits that only on the ground that initiation of enquiry under Annexure-C, Charge Memo dated 21.06.2022 is barred under Rule 214 (2) (b)(ii) of the KCSRs, it is liable to be set aside.

3. Learned counsel Sri.H.L.Pradeep Kumar on instructions would submit that initially enquiry was initiated against the petitioners while they were in service on 28.09.2013 and thereafter under Annexure-B, order dated 21.08.2014, petitioners were exonerated of the Charges. Subsequently on the recommendation of the Public Accounts Committee, the present proceedings is initiated. Thus, he submits that there is continuation of cause of action. Hence, he justifies the Charge Memo issued against the petitioners.

4. It is not in dispute that petitioners retired on 30.06.2018 and 31.08.2020 respectively on attaining the age of superannuation. Charge Memo at Annexure-C dated 21.06.2022 was issued subsequent to retirement of petitioners. The first charge against the petitioners reads as follows:

"(1) ಶ್ರೀ.ಐ.ಮಲ್ಲಣ್ಣ, ಕಾರ್ಯವಲಕ ಅಭಿಯಂತರರು, ಸಮನ್ವಯ ಕಛೇರಿ, ಗುಲ್ಬರ್ಗಾ ಹಾಗೂ (2) ಶ್ರೀ.ಅನಿಲ್ ಕುಮಾರ್, ಸಹಾಯಕ ಕಾರ್ಯವಲಕ ಅಭಿಯಂತರರು, ಕೇಂದ್ರ ಕಛೇರಿ, ಬೆಂಗಳೂರು, ಆದ ನಿವೃತ್ತಿಗಲು ಹಿಂದೆ ಬೆಲಗಾಂ ಕಛೇರಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ನಿಮ್ಮ ಬೇಜವಾಬ್ದಾರಿತನ ಹಾಗೂ ಕರ್ತವ್ಯ ನಿರ್ಲಕ್ಷ್ಯತೆಯಿಂದ ಬೆಲಗಾಂ ಜಿಲ್ಲೆಯ ಕಂಕನವಾಡಿ ಗ್ರಾಮದ ರಾಮದುರ್ಗ ಮುಖ್ಯರಸ್ತೆಗೆ ಹೊಂದಿಕೊಂಡಿರುವ ಸರ್ವೆ ನಂ.7ಎ ಹಾಗೂ 8ಎ ರಲ್ಲಿ 15-19 ಎಕರೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳಲು ಶಿಫಾರಸ್ಸು ಮಾಡಿ, ತದನಂತರ ಉಪಬಿಭಾಗಾಧಿಕಾರಿ, ಬೈಲಹೊಂಗಲ ರವರು ದಿನಾಂಕ

26.08.2006 ರಂದು ಸದರಿ ಜಮೀನುಗಳಲ್ಲಿ ಟ್ರಯಲ್ ಸಿಬ್ಬಂದಿಗಳನ್ನು ಹಾಕಿದ್ದು, ಅದರಲ್ಲಿ 8 ಲಿಂದ 10 ಅಡಿ ತಗ್ಗು ತೋಡಲಾಗಿದ್ದರೂ ಸಹ ಗಟ್ಟಿ ಪಾಯ ಇರುವುದಿಲ್ಲ ಎಂಬುದಾಗಿ ತಿಳಿಸಿದ್ದರೂ ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ವಸತಿ ಯೋಜನೆ ಕೈಗೊಂಡು ಭಾಗಶಃ ಕಾಮಗಾರಿ ಅನುಷ್ಠಾನಗೊಳಿಸಿ ನಂತರ ಪ್ರವಾಹದಿಂದ ಮುಳುಗಡಿಯಾಗುತ್ತಿದೆ ಎಂಬ ಕಾರಣದಿಂದ ಸದರಿ ಕಾಮಗಾರಿಗಾಗಿ ರೂ.1.99 ಕೋಟಿ ವೆಚ್ಚ ಭರಿಸಿ ಮಂಡಳಿಗೆ ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟು ಮಾಡಿರುತ್ತೀರಿ. ಇದು ನಿಮ್ಮ ಉದಾಸೀನತೆ ಹಾಗೂ ಕರ್ತವ್ಯ ಲೋಪವನ್ನು ತೋರಿಸುತ್ತದೆ.”

A reading of the above Charge would clearly indicates that the Charge is against an incident which had taken place in the year 2006.

6. Rule 214 (2)(b)(ii) of the KCSRs reads thus:

“214 (2) (b) *The departmental*

*proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re employment.*

(i) .....

(ii) *shall not be in respect of any event which took place more than four years before such institution.”*

The above Rule which is applicable to the employees of KHB would not permit initiation of enquiry in respect of an event which took place more than 4 years before such institution in respect of a retired employee.

7. In the case on hand, initiation of enquiry and issuance of Charge Memo dated 21.06.2022 (Annexure-C) is in respect of an event which took place more than 4 years before such institution against retired petitioners. Thus, the institution of enquiry under Charge Memo is barred by Rule 214 (2)(b)(ii) of KCSRs. Thus, the Charge Memo is not sustainable in law. Hence, the following:

## **ORDER**

a) Writ petition is allowed.

b) Annexure-C, Charge Memo bearing No. ಕಗ್ಯಮಂ/ಆಡಳಿತ/ಸಿಶಾ:ಪಿಆರ್ 45/2012-13 dated 21.06.2022 as well as Annexure-D, appointment of Enquiry Officer bearing No. ಕಗ್ಯಮಂ/ಆಡಳಿತ/ಸಿಶಾ:ಪಿಆರ್ 45/2012-13 dated 20.08.2022 are quashed.

c) The respondent No.2 is directed to settle the terminal benefits of the petitioners if there is no other enquiry or impediment to release within three months, if not already settled.

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