



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2023



PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 1154 OF 2023 (S-RES)

BETWEEN:

KUM. SOWMYA R,

...APPELLANT

(BY SRI. VINOD KUMAR M.,ADVOCATE)

AND:

1. THE REGISTRAR GENERAL,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.
2. THE PRINCIPAL DISTRICT & SESSION JUDGE
KODAGU-MADIKERI,
OFFICE OF THE DISTRICT &
SESSION JUDGE COURT,
KODAGU-571 201.
3. THE SENIOR CIVIL JUDGE AND JFMC,
OFFICE OF THE SENIOR CIVIL JUDGE AND JMFC
COURT AT PONNAMPET, VIRAJPET,
KODAGU DISTRICT-571 201.

...RESPONDENTS

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by SHARADA
VANI B
Location:
HIGH COURT
OF
KARNATAKA





THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A) ALLOW THE WRIT APPEAL AND B) SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.11366/2022 DATED 14/06/2023 AND C) QUASH THE ORDER PASSED IN PROCEEDINGS BY THE RESPONDENT NO.2 IN DES NO.593/2019 DATED 15/02/2019 AND DIRECT THE RESPONDENT NOS.1 TO 3 TO RESTORE THE PETITIONER AS STENOGRAPHER WITH AREAS OF SALARY AND CONTINUITY OF SERVICE AND D) PASS SUCH OTHER ORDER OR ORDERS.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

1. This intra-Court appeal by the unsuccessful writ petitioner seeks to call in question a learned Single Judge's order dated 14.06.2023, whereby her W.P No.11366/2022 (S-RES) wherein a challenge was laid to the order dated 15.02.2019 discharging her from service.
2. Learned counsel appearing for the appellant argues that the order of termination of her client from service is apparently stigmatic in the light of attending circumstances and therefore, learned Single Judge is not right in denying relief.
3. Having heard the learned counsel for the appellant and having perused the appeal papers we decline



indulgence in the matter broadly agreeing with the reasoning of the learned Single Judge who has structured the impugned order placing reliance on two decisions of the Apex Court viz. **DEEPTI PRAKASH BANNERJI vs. SATYENDRANATH BOSE NATIONAL CENTRE FOR BASIC SCIENCES, (1999) 3 SCC 60** and **DIRECTOR OF ARYABHATA RESEARCH INSTITUTE OF OBSERVATIONAL SCIENCES vs. DEVENDRA JOSHI, (2018) 3 SLR 125 (SC)**.

4. We hardly need to add that an employee during the period of probation has lesser rights *qua* the employee whose probationary period has been successfully completed. The object of placing an employee on probation is two fold: the employer will have opportunity of assessing the suitability of the employee for the job in question and similarly, the employee too will have an occasion to assess the suitability of employment. During the said period both have an option as to continuation in employment. Justice Rama Jois in his "SERVICES UNDER THE STATE" N.M.Tripati Publication - 1987 at Page 390 writes as under:



"A person who is directly recruited is normally kept on probation for the prescribed number of years as prescribed in the recruitment rules. The period of probation is the period of trial during which the suitability of the officer to the post to which he is recruited is to be tested. During the period of probation, an official maybe required to pas certain departmental examinations and/r to prove his integrity and ability and capacity to discharge the duties of the post. Therefore, during the period of probation, a person acquires no right to hold the post."

5. The vehement of the learned counsel for the appellant that his client having been appointed as a stenographer in the Court of Civil Judge, Virajpet on 29.08.2012 and having completed all the departmental examination, cannot be made to suffer termination from service by a stroke of pen, is bit difficult to countenance. It has been a settled position of law although under the service rules probationary period is required to be treated as if it is substantive it is only limited for certain purposes under the civil services rules but a probationer cannot be treated as a person holding the spot substantively. A person appointed on probation becomes a permanent



employee only after the issue of an express order of confirmation. By the mere expiry of the period of probation and continuing in service after the expiry of the period of probation, a civil servant does not automatically acquire the status of a permanent member of the service, unless the rules expressly provide for automatic confirmation. Such a rule is not cited before us. We do not mean to say that there can be no case falling in the category of exception to this general rule of service jurisprudence. However, appellant has not made out a case for the invocation for exception to the rule.

In the above circumstances, this appeal being devoid of merits is liable to be and accordingly, rejected in *limine*.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb/AHB
List No.: 1 SI No.: 27