



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

DATED THIS THE 5<sup>TH</sup> DAY OF OCTOBER, 2023

PRESENT

**THE HON'BLE MR JUSTICE S.R. KRISHNA KUMAR**

AND

**THE HON'BLE MR JUSTICE G BASAVARAJA**

WRIT PETITION NO. 102595 OF 2023 (S-KAT)

**BETWEEN:**

SMT. JAYASHREE

...PETITIONER

(BY SMT. SURABHI RAVINDRA KULKARNI, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
REPRESENTED BY ITS SECRETARY TO  
REVENUE DEPARTMENT,  
M.S.BUILDING, AMBEDKAR VEEDHI,  
BANGALORE-560001.
2. THE DEPUTY COMMISSIONER  
OFFICE OF THE DEPUTY COMMISSIONER,  
UB HILLS ROAD,  
HINDI PRACHAR SABHA CIRCLE,  
MALMADDI, DHARWAD-580001.
3. THE ASSISTANT COMMISSIONER  
UB HILLS, MALAMADDI,  
DHARWAD 580001.
4. THE TAHSILDAR  
STATION ROAD,





NEXT DHARWAD HO,  
DC COMPOUND  
DHARWAD-580001.

...RESPONDENTS

(BY SRI. G.K.HIREGOUDAR, GOVT. ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO, ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, QUASHING THE ORDER DATED 30.03.2023 PASSED IN APPLICATION NO.10911/2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI, PRODUCED AS PER ANNEXURE-C AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **S.R.KRISHNA KUMAR J.**, PASSED THE FOLLOWING:

### **ORDER**

This petition by the unsuccessful applicant in Application No.10911/2022 is directed against the impugned order dated 30<sup>th</sup> March 2023 passed by the Karnataka State Administrative Tribunal, Belagavi Bench (for short, 'the Tribunal'), whereby the said application filed by the petitioner was dismissed by the Tribunal.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.



3. A perusal of the material on record will indicate that the petitioner is working as a Village Accountant with the respondent from 16.03.2005 onwards. On the basis of a complaint, criminal proceedings in Crime No.34/2017 were instituted as against the petitioner. Subsequently, on 20.12.2021, a Departmental Promotion Committee (DPC) Meeting was held to consider the candidates for promotion including the petitioner herein. However, the petitioner was denied promotion on the ground that the aforesaid criminal case in Crime No.34/2017 was pending against him. A charge sheet was filed subsequently on 01.02.2022 in the aforesaid Crime No.34/2017 after the said DPC Meeting was held wherein the petitioner was denied promotion. So also, the request of the petitioner by way of representation dated 13.05.2022 having been rejected by respondent No.2 vide impugned endorsement dated 05.07.2022, the petitioner approached the Tribunal in the instant application which was contested by the respondents, and dismissed by the Tribunal which passed the impugned order, which is assailed in the present petition.



4. In addition to reiterating various contention urged in the petition and referring to the material on record, the learned counsel for the petitioner submits that in the light of the judgment of the Apex Court in the case of ***Union of India Vs. K.V.Janakiraman***<sup>1</sup> and in the case of ***Union of India Vs. Anil Kumar Sarkar***<sup>2</sup>, mere pendency of criminal proceedings cannot be made the basis or come in the way of the promotion of a person who is otherwise eligible. It is also pointed out that on 14.03.1993 itself, the State Government has issued a Circular which *inter alia* states that as on the date of DPC Meeting if charge sheet is not filed or if the Articles of Charge is not issued, mere pendency of criminal proceedings in the absence of charge sheet being issued, the sealed cover procedure cannot be adopted and the same can be adopted only after issuance of Charge Sheet or Articles of Charge. It is, therefore, submitted that despite the aforesaid judgments of the Apex Court and the State Government Circular, the

---

<sup>1</sup> (1991)4 SCC 109

<sup>2</sup> (2013)4 SCC 161



respondents have adopted the sealed cover procedure and denied promotion to the petitioner which has been incorrectly upheld by the Tribunal and as such, the petitioner is before this Court by way of the present petition.

5. *Per contra*, the learned Government Advocate for the respondent-State would support the impugned order passed by the Tribunal and submit that there is no merit in the petition and that the same is liable to be dismissed.

6. As rightly contended by the learned counsel for the petitioner, a perusal of the State Government circular dated 14.07.1993 will indicate that the procedure of maintaining a sealed cover and refusing promotion can be adopted by the respondent only in case where charge sheet has already been filed or Articles of Charge has already been issued as against the alleged delinquent official as on the date of DPC Meeting. In the case on



hand, the material on record indicates that as on the date of DPC Meeting which was held on 20.12.2021, neither Charge Sheet had been filed nor Articles of Charge had been issued to the petitioner, and the charge sheet was filed subsequently on 01.02.2022. Under these circumstances, there was no warrant for the respondents to adopt a sealed cover procedure and deny promotion to the petitioner in its meeting held on 20.12.2021 particularly in the absence of either the Articles of Charge being issued or the Charge Sheet being filed against the petitioner. The learned counsel for the petitioner is also correct in his submission that the impugned order passed by the Tribunal is contrary to the judgments of the Apex Court in ***K.V.Janakiraman's*** case and in ***Anil Kumar Sarkar's*** (supra) and on this ground also the impugned order passed by the Tribunal deserves to be set aside and the application filed by the petitioner deserves to be allowed.

7. In the result, we pass the following:



ORDER

- i) The petition is hereby allowed.
- ii) The impugned order dated 30.03.2023 passed in Application No.10911/2022 is hereby allowed.
- iii) The impugned endorsement dated 05.07.2022, at Annexure-A17 issued by respondent No.2 is hereby quashed.
- iv) The respondents are hereby directed to consider the petitioner-applicant for promotion to the post of FDA/Revenue Inspector together with all consequential benefits within a period of three months from the date of receipt of a copy of this order.

**Sd**  
**JUDGE**

**Sd**  
**JUDGE**

