



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JANUARY, 2024

PRESENT

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

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 543 OF 2023 (S-DIS)

BETWEEN:

1. ATTIKARIBETTU GRAMA PANCHAYATH,
ATTIKARIBETTU VILLAGE & POST,
VIA MULKI, MANGALURU TALUK,
D.K.DISTRICT-574 154,
REP. BY ITS PRESIDIENT.
2. THE PANCHAYATH DIVELOPMENT OFFICER,
ATIIKARIBETTU VILLAGE & POST,
VIA MULKI, MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT-574 154.

...APPELLANTS

(BY SRI. DR.S.ARUMUGHAM.,ADVOCATE)

AND:

1. SRI. GANESHA,
AGED ABOUT 35 YEARS,
S/O PERGU MUKHARI,
R/AT NEAR SINDHUR FACTORY,
1-141, KAKVA POST, MULKI,
MANGALURU-571154.
2. THE STATE OF KARNATAKA,
DEPARTMENT OF RURAL DEVELOPMENT
AND PANCHATAYAT RAJ,
M.S. BUILDING, DR.AMBEDKAR VEEDHI,
BENGALURU-560 001.





3. DAKSHIN KANNADA ZILLA PANCYANATH,
OFFICE OF THE DAKSHINA KANND
ZILLA PANCHAYATH, ASHOKNAGAR,
KOTTARA POST, MANGALURU,
DAKSHINA KANNADA DISTRICT-575 006.
REP. BY ITS CHIEF EXECUTIVE OFFICER,

...RESPONDENTS

(BY SMT.NILOUFER AKBAR., AGA FOR R2;
SRI. SHARANJIT SHETTY K.,ADVOCATE FOR R3)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO I) CALL FOR RECORDS IN W. P. No. 543/2022 (S-DIS), AND II) SET ASIDE THE ORDER PASSED IN W. P. 543/2022 (S) BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT DATED 6.4.2023, AND DISMISS W.P.543/2022 (S-DIS) FILED BY THE PETITIONER AND ETC.,

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

JUDGEMENT

1. This intra-court Appeal seeks to calls in question a learned Single Judge's order dated 06.04.2023 whereby Private Respondent's W.P.No.543/2022 (S-DIS) having been favoured, his dismissal from service is set at naught with a direction to reinstate him in the position forthwith. Learned Judge has reserved liberty to the Appellant -Gram



Panchayath to initiate disciplinary action, if it so desires against the Respondent herein.

2. Having heard the learned counsel for the parties and having perused the Appeal papers, we decline indulgence in the matter being broadly in agreement with the reasoning of the learned Single Judge. Admittedly, only a criminal case was registered against the Respondent herein and the same has been still pending. That being the position, he could not have been dismissed from service without holding any enquiry.

3. In a society like ours, job more often than not, happens to be predominant source of livelihood and therefore snatching away a job (in public employment), like the one that has happened in the case at hand, virtually amounts to taking away the means of livelihood of the employee. That offends the pith & substance of fundamental right to life & liberty constitutionally guaranteed under Article 21 in the light of ***OLGA TELLIS***



vs BOMBAY MUNICIPAL CORPORATION, AIR 1986 SC

180. That apart, no employee can be punished that too by way of dismissal from service without giving an opportunity of hearing. The principles of natural justice as being a part of Article 14. Ours being a Welfare State, Article 12 - Entities have to conduct themselves as model employers and their decisions should be pregnant with human values. It is worth reproducing what Justice Felix Frankfurter of US Supreme Court had observed in ***JOINT ANTI-FASCIST REFUGEE COMMITTEE Vs McGRATH, 95 L Ed 817:***

“...Validity and moral authority of a conclusion largely depend on the mode by which it was reached... No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it. Nor has a better way been found for generating the feeling, so important to a popular government, that justice has been done...”

4. Ordinarily where an employee is convicted & sentenced for an offence involving moral turpitude, it is now largely settled that on that ground *per se*, he can be



removed from the employment. Thus, had the Respondent been convicted & sentenced for such an offence and on that ground he was removed from service, the Appellants could have had an arguable case for examination in Appeal. However, that question does not arise in this case.

In the above circumstances, this Appeal being devoid of merits is liable to be and accordingly dismissed, costs having been made easy. However, in the fitness of the facts, we leave it to the Appellants to decide in their discretion on the request for payment of backwages during the period the Respondent has been out of employment.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb, BKV
List No.: 1 Sl No.: 34