HC-KAR

# IN THE HIGH COURT OF KARNATAKA AT BENGALURU

**DATED THIS THE 3RD DAY OF SEPTEMBER, 2025**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE C M JOSHI**

**WRIT APPEAL NO. 1577 OF 2024 (S-RES)**

BETWEEN:

1. BANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED
K.R. CIRCLE
BENGALURU - 560 001
REP. BY ITS
THE GENERAL MANAGER (A & HR)

...APPELLANT

(BY SMT. SWAMINI G. MOHANAMBAL, ADVOCATE
SRI SANDEEP S PATIL, ADVOCATE)

AND:

1. SMT. MALATHI B
W/O B.V. ARUNA KUMAR
AGED ABOUT 61 YEARS
R/A NO.663, 10TH MAIN
RPC LAYOUT, HAMPINAGAR
VIJAYANAGAR 2ND STAGE
BENGALURU - 560 104

2. KARNATAKA POWER TRANSMISSION
CORPORATION LIMITED
KAVERI BHAVAN
K.G.ROAD, BENGALURU - 560 009
REP. BY ITS MANAGING DIRECTOR

...RESPONDENTS

(SRI ABHISHEK N.V, ADVOCATE FOR CAVEATOR/RESPONDENT
No.1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THIS APPEAL AND SET ASIDE THE JUDGEMENT AND ORDER PASSED IN WRIT PETITION No.15013/2024 DATED 11.07.2024 AND CONSEQUENTLY DISMISS THE WRIT PETITION FILED BY THE PETITIONER.

THIS APPEAL, COMING ON FOR PELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

**ORAL JUDGMENT**

(PER: HON'BLE MR. VIBHU BAKHRU,CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 11.07.2024 passed by the learned Single Judge in Writ Petition No.15013/2024 (S-RES), captioned 'Smt.Malathi B v. Karnataka Power Transmission Corporation Limited'.

2. Respondent No.1 had filed the said petition, *inter alia,* praying that the appellant be directed to pay all retirement benefits, that is, death-cum-retirement gratuity, entitlement for leave encashment benefit and other pensionary benefits along with interest from the date of retirement. The said benefits had not been settled for the reason that a show cause notice was issued to respondent No.1 in the year 2019. However, admittedly disciplinary proceedings had not been commenced. In the

aforesaid circumstances, the learned Single Judge found that the retiral benefits could not be withheld on account of any disciplinary proceedings, as the same had not been commenced within a period of four years from the date of the incident.

2. Regulation 171 of the Karnataka Electricity Board Employees' Service Regulations issued in 1966, which is relevant in the present case is set out below:

> "**Withholding or withdrawal of pensions and recoveries therefrom**
>
> 171. The Board further reserves to itself the right of withholding or withdrawing a pension, or any part of it, whether permanently, or for a specified period and the right of ordering the recovery from a pension of the whole, or part of any pecuniary loss caused to the Board, if, in a departmental or judicial proceedings, the pensioner is found guilty of grave misconduct, or negligence, during the period of his service, including service rendered on re-employment after retirement; provided that
>
> (a) such departmental proceedings, if instituted while the employee was in service, whether before his retirement or during his re-employment, shall after the final retirement or during his re-employment, shall, after the final retirement of the employee, be deemd to be a proceedings under this Regulation and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service;
>
> (b) such departmental proceedings, if not instituted while the employee was in service, whether before his retirement or during his re-employment:

(i) shall not be instituted save with the sanction of the Board.

(ii) shall not be in respect of any event which took place more than 4 years before such institution; and

(iii) shall be conducted by such authority and in such place as the Board may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the employee during his service.

(c) no such judicial proceedings, if not instituted while the employee was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a case of action which arose, or in respect of an event which took place, more than 4 years before such institution.

(d) Deleted.

**Explanation** :- For the purpose of this Regulation:

(a) a departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the employee or pensioner, or if the employee has been placed under suspension from an earlier date, on such date; and

(b) a judicial proceedings shall be deemed to be instituted;

(i) in the case of a criminal proceedings, on the date on which the complaint or report of police officer of which the Magistrate takes cognizance is made; and

(ii) in the case of a civil proceedings, on the date of presentation of the plaint in the Court.

Note:- Where a case of loss to the Board arising from fraud or negligence on the part of a retired employee while he was in service, comes to the knowledge of the pension sanctioning authority before his pension is actually sanctioned by that authority, and no departmental or judicial proceedings can be instituted

> at that stage under the proviso to this Regulation, although no direct penal recovery from pension is permissible the pension sanctioning authority can order a reduction in the amount of pension under the provisions of Regulation 218 if the service of the employee can be held to have been not thoroughly satisfactory."

3. In terms of Regulation 171 (b)(ii), departmental proceedings cannot be instituted in respect of an event which took place more than four years before such institution. In the present case, a show cause notice was issued to respondent No.1 on 25.05.2019. The relevant extract of the said show cause notice setting out the allegations against respondent No.1 is reproduced below:

> "You, Smt. B. Malathi (PIN 2726) working as Deputy General Manager in Electronic Payment Unit (O.P.C) of the Corporate office of the BESCOM, Bangalore, it is your duty of proper management and supervision to verify from the sub division office and bank account about the credit of payment of bills though online by the customers of BESCOM and by confirming, tallying, putting the receipts to the concerned consumers, proper maintenance of works of adopting in them in the software.
>
> But, it is confirmed that from March-2018 he staff working in the said section, not doing the above works properly, putting false receipts, causing financial loss of about Rs,1,23 crores to the Company. From this, you by not discharging your duty and responsibilities properly and not supervising the works of subordinate staff properly, indirectly responsible for causing financial loss to the Company.

> This conduct of yours is the dereliction of duty and lapses as per Rule -33, Annexure-B(i), (vii) of KEB Employees Service (Conduct) Rules-33 of Rules of 1988."

4. Respondent No.1 had responded to the said show cause notice. She submitted that during the period she was deputed as Deputy Controller to Bengaluru Electric Supply Company Limited (BESCOM), she had noticed that there were certain financial irregularities in online payment cell. She claimed that this was brought to the notice of her superiors and it also led to registration of an FIR (Crime No.0041/2019). She contested the allegation that there was dereliction of duty on her part. Concededly, thereafter, no action was initiated against respondent No.1.

5. The persons accused in the FIR (Crime No.0041/2019) registered with Vidhana Soudha Police Station were suspended, but had been reinstated. It is also not controverted that no action has been instituted against those persons as well.

6. After the issuance of the said show cause notice, respondent No.1 was repatriated to her parent organization. She was also promoted to the post of Deputy Controller of Accounts in the year

2022. She attained the age of superannuation on 31.07.2023. It is noticed that more than seven years has been lapsed from the issuance of the show cause notice and no disciplinary proceedings have commenced. It is also material to note that in terms of explanation to Regulation 171, the departmental proceedings are deemed to have been instituted on the date when the statement of charges is issued to the employee or the pensioner.

7. Although no disciplinary proceedings have been initiated, it is contended on behalf of the appellant that the cause of action is a continuing one and the show cause notice did not specify any period. It is contended that successive audits were conducted and the entire extent of the irregularity has not been quantified as yet. It is earnestly contended on behalf of the appellant that the disciplinary proceedings had not commenced, as the preliminary investigation is not over.

8. We are not persuaded to accept that the pensionary and retiral benefits of respondent No.1 could be withheld indefinitely on account of a possible disciplinary proceedings at a future date. The show cause notice had clearly spelt out the quantum of loss

suffered and are articulated in the allegations which was responded to by respondent No.1. It is clear that more than four years have elapsed from the date of the incident and, therefore, no departmental proceedings could be instituted in terms of Regulation 171(b) of the Regulations.

9. In the given circumstances, the decision of the learned Single Judge directing that the retiral and other pensionary benefits be paid to respondent No.1, cannot be faulted.

10. The appeal is unmerited and, accordingly, dismissed.

11. All pending applications stand disposed of.

**Sd/-**
**(VIBHU BAKHRU)**
**CHIEF JUSTICE**

**Sd/-**
**(C M JOSHI)**
**JUDGE**

AHB
List No.: 1 Sl No.: 21