

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF JUNE, 2022**

BEFORE

THE HON'BLE MR. JUSTICE P.S. DINESH KUMAR

WRIT PETITION No.16983 OF 2021 (S-RES)

BETWEEN :

SRI. SHIVANAND LAXMAN ANCHI

... PETITIONER

(BY SHRI. SHRIDHAR PRABHU, ADVOCATE)

AND :

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF LAW
VIDHANA SOUDHA
BANGALORE-560 001
2. HIGH COURT OF KARNATAKA
REPRESENTED BY ITS
REGISTRAR GENERAL
BANGALORE-560 001

... RESPONDENTS

(BY SHRI. A. RAMESH GOWDA, AGA FOR R1;
SHRI. M.A. SUBRAMANI, ADVOCATE FOR R2)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226
OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR
RECORDS FROM THE RESPONDENTS AND QUASH THE
IMPUGNED ORDER OF PENALTY DATED 22.03.2021

ANNEXURE-H ISSUED BY THE R1 WITH ALL CONSEQUENTIAL BENEFITS INCLUDING MONETARY BENEFITS.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 04.03.2022, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:-

ORDER

This writ petition is filed seeking following reliefs:

- "(a) Call for records from the respondent;*
- (b) Issue a writ or order quashing the impugned order of penalty bearing No. LAW - LAC/61/2021 dated 22.03.2021 (Annexure-H) issued by the 1st Respondent with all consequential benefits including monetary benefits, in the interest of justice and equity;*
- (c) Pass any other order including the costs of this Writ Petition, in the interest of justice and equity."*

2. Heard Shri. Shridhar Prabhu, learned Advocate for petitioner, Shri. A. Ramesh Gowda, learned AGA for respondent No.1 and Shri. M.A. Subramani, learned Advocate for respondent No.2.

3. Brief facts of the case are, on April 9, 2014, petitioner was appointed as the Civil Judge,

Junior Division. In 2019, he was posted as Additional Civil Judge, JMFC, Virajpet. By Notification No.GOB(I)3/2019 dated June 22, 2019, he was placed in charge as Civil Judge and JMFC, Ponnampet with a direction to itinerate the said Court for three days in a week, on every Monday, Tuesday and Wednesday. On June 27, 2019, the Principal District and Sessions Judge, Kodagu, Madikeri conducted a surprise visit and noticed that petitioner was signing the order sheets of the previous day on 27th June and putting the date as 26th June.

4. Based on the Report of the Principal District Judge, Articles of Charges were issued. A Departmental Enquiry was conducted by the First Additional District Judge, Kodagu, Madikeri and he held the charge as proved. A second show cause notice was issued and petitioner submitted his reply. Petitioner has been compulsorily retired vide

order dated March 22, 2021. Feeling aggrieved, petitioner has filed this writ petition.

5. Shri. Shridhar Prabhu, submitted that petitioner had gone to Ponnampet on June 26, 2019. He could not reach Virajpet on the same day due to heavy rains and indisposition of his father and therefore, he could not conduct the Court proceedings on 26th June. Though he was signing the order sheets on 27th June, what was recorded in the order sheet was the previous stage of the case. He contended that petitioner was forced to remain absent for half-day in the afternoon of 26th June due to his father's health condition. The punishment of compulsory retirement is therefore grossly disproportionate. Accordingly, he prayed for allowing this writ petition.

6. Shri.Subramani, for second respondent argued opposing the writ petition.

7. I have carefully considered rival contentions and perused the records.

8. Undisputed facts of the case are, petitioner was granted permission to leave the head quarters from 9.00 a.m. on June 26, 2019, till he returned to his Head quarter, namely Virajpet. On that day he did not return to the Court and remained unauthorizedly absent. On the following day, namely June 27, 2019, the Principal District Judge (PDJ for short) made a surprise visit to petitioner's Court. He has stated in his Report that petitioner was signing the typed order sheets on 27th June mentioning the date as 26th June. The learned PDJ had taken the unsigned order sheets into his custody, obtained their photo copies and returned the order sheets to the Bench Clerk.

9. The enquiry report discloses that P.W.1 is the Bench Clerk of JMFC Court in Virajpet. He has stated that on 26th June, he went to the Office

at 8.30 a.m. Petitioner reached the office between 9.00 and 9.15 a.m. He told him that he had to travel to Ponnampet for handing over the charge. As per petitioner's instructions, he had given dates and typed the order sheets. He was waiting in the office up to 5.45. p.m. for petitioner to sign the order sheets. He went to petitioner's house and requested him to come to the Office and sign the order sheets. According to him, petitioner had stated that he was unwell and he would sign the order sheets on the following day. On the following day, P.W.1 came to the office at 8.30 a.m. and petitioner also came to the office and signing the order sheets. At that time, the Learned Principal District Judge came to the Office at 8.45 a.m. By then, petitioner had signed 16 order sheets and 22 were remaining.

10. P.W. 2 is the Sheristedar of the JMFC Court. His evidence is not relevant. P.W.3 is the

Sheristedar of Ponnampet Court. He has stated that on June 26, 2019, petitioner had gone to Ponnampet and left the Court premises at around 12.45 p.m. P.W.4 is the Second Division Assistant in Ponnampet Court. His evidence is also not of much relevance. P.W.5 is the Principal District Judge, Madikeri. He has stated that the Administrative Judge had informed him at about 7.30 p.m. on June 26, 2019 that proceedings were not conducted in the Court in Virjapet on that day and sought for details. He collected the details and submitted the same to the Administrative Judge. He made a surprise visit to Virajpet on 27th June. According to him, petitioner was signing the order sheets typed on the Computer and recording previous day's date. According to the learned PDJ, the Bench Clerk had stated that he had got the order sheets typed as per petitioner's oral instructions. The learned PDJ has also stated that

he had verified the attendance register and found that the petitioner had not put his signature in the Register. He had put a question mark in the attendance register and taken it into his custody. Later, he handed it over to the Sheristedar. He had sought explanation from the petitioner in that behalf and petitioner has not given any explanation.

11. It is recorded in the enquiry report that petitioner had neither cross-examined the witnesses nor adduced any evidence on his behalf. On appreciation of evidence on record, the enquiry officer has held the charges against petitioner were proved.

12. Even before this Court, Shri. Sridhar Prabhu has mainly argued on the aspect of proportionality.

13. It is relevant to note that Court proceedings are sacrosanct acts. By instructing the

Bench Clerk to prepare the order sheets of the previous day and by signing them on the following day, petitioner has committed a serious dereliction of his duty.

14. Maintenance of high degree of probity and integrity, are the hallmarks of Judges. Litigants approach the Court with utmost trust. To record proceedings in the order sheet, which have not actually taken place is anathema to sacrosanct Court proceedings and such conduct cannot be countenanced in the case of a Judicial Officer/Judge. If this is permitted, there will be no sanctity for the proceedings. It is therefore, imperative that strict action is taken.

15. Petitioner has not chosen to cross-examine the witnesses. He has also not let in any evidence in the enquiry.

16. In view of the above, no exception can be taken to the quantum of penalty imposed for the petitioner.

17. Resultantly, this petition fails and it is accordingly ***dismissed***.

No costs.

**Sd/-
JUDGE**

SPS