

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. OF 2025

(Arising out of SLP (C)Nos. 6350-6351 of 2022)

SURESH K & ANR.

Appellant (s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

O R D E R

1) Leave granted.

2) The instant appeal relates to the selection and appointment to the post of Assistant Superintendent of Prisons in furtherance to Notification issued in year 2004-2005 by respondent nos. 1 and 2.

3) It is the case of the appellants that, pursuant to the said notification, Sri. Suresh K (appellant no. 1) and Smt. R. Latha (appellant no. 2) were selected and appointed on the post 'Gazetted Probationers Group-A and B', *vide* orders dated 03.08.2006 and 31.07.2006 respectively. The

respondent no. 3 (Mr. Mahesh Kumar Jigani) could not find her name in the said lists. Aggrieved, he filed Writ Petition under Article 32 of the Constitution of India before this Court, being W.P. (C) No. 370 of 2007, which came to be disposed of *vide* order dated 06.05.2010 in the following terms:

"Heard both sides.

No orders on the application for intervention, impleadment and amendment of the petitions.

These Writ Petitions are disposed of, in terms of the order passed by this Court on 31.03.2010 in Writ Petition (C) No. 577 of 2004 etc.etc."

4) In the said order, order dated 31.03.2010 passed in Writ Petition (C) No. 577 of 2004 has been referred to. The said order is also relevant, therefore, reproduced as under:

"This and the connected Writ Petitions have been filed under Article 32 of the Constitution of India, by in-service candidates working as Assistants/First Division Assistants in various departments of State since 1999, apprehended termination of their services, on account of wrong application of horizontal reservation for Women S.C./S.T., O.B.C. and Physically handicapped candidates. Various reliefs have been claimed by them.

Karnataka Public Service Commission had conducted selection for Assistants/First Division Assistants for being appointed in various departments. There was reservation in favour of SC/ST and other backward classes. There was also reservation of 30% for women candidates and 3% for handicapped persons. Pursuant to the selection, candidates were appointed in the year 1999, in various departments and ever since then, it is not disputed that they have been working on the said posts. In these writ petitions, it is alleged that the State of Karnataka has wrongly applied the reservation meant for women candidates. It is alleged that the principle of Horizontal reservation was not strictly adhered to. There was also an allegation that benefit for rural weightage was not strictly complied with. So, the Department had to revise the list and to give certain directions for further appointments. Since all the candidates have been working from 1999, we do not think it proper to disturb the candidates who have already been in service and to dislodge them at such a long distance of time.

Learned counsel for petitioner has placed strong reliance on a judgment of this Court in 2007 (8) SCC 785, *Rajesh Kumar Daria vs. Rajasthan Public Service Commission and others*. However, in view of the fact that present petitioners are not being terminated from service it is not necessary to enter into further merits thereof.

Mr. Sanjay Hegde, learned counsel appearing for the State of Karnataka, submitted that no employee, who is in service would be terminated on the basis of

wrong application of principle of reservation.

However, we may clarify that if any of the employee feels that his seniority in the respective department is not fixed properly, he would be at liberty to approach the Karnataka State Administrative Tribunal for appropriate relief which would be considered by it, on merits and in accordance with law.

The writ petitions are disposed of accordingly."

5) Subsequently, he filed Interlocutory Application No. 3 in Writ Petition (Civil) No. 370 of 2007 seeking modification of the order dated 06.05.2010 *inter alia* contending that the disposal of his Writ Petition in terms of order dated 31.03.2010 passed in Writ Petition (Civil) No. 577 of 2004 is not correct; rather, it ought to be disposed of in terms of order dated 29.07.2009 passed in Writ Petition (Civil) No. 232 of 1999. This Court *vide* order dated 21.09.2010 disposed-of the said application and directed as under:

"We have heard Mr. Naveen R. Nath, learned counsel for the applicants and Mr. Sanjay R. Hegde, learned counsel for the respondent-State of Karnataka.

These are applications for modification/clarification of the order passed by this Court on 06.05.2010, in

terms of order passed in Writ Petition (C) No. 577/2004 on 31.03.2010.

Learned counsel for the applicants submitted that the applicants' Writ Petition has wrongly been disposed of in terms of the order dated 31.03.2010 passed in Writ Petition (C)No.577/2004, whereas it should have been disposed of in terms of the order dated 29.07.2009 passed in Writ Petition (C) No. 232/1999. Learned counsel appearing for the respondent-State of Karnataka has opposed the prayer on the ground that the applicants are virtually seeking review of the earlier order and, therefore, it should not be entertained.

However, in order to do complete justice between the parties, we would not like to go into the technicalities, raised by learned counsel for the respondent. We are of the considered opinion that the applicants' case would be squarely covered by the final directions passed by this Court on 29.07.2009 in W.P. (C) No. 232 of 1999 which reads thus :

"In the result, the writ petition is disposed of with a direction to consider the claim of the petitioner having regard to the principle laid down by this Court in Civil Appeal No.3132/2007 reported in 2007(8) SCC 785 Rajesh Kr. Daria Vs. Rajasthan Public Service Commission & Ors. A decision may be taken within a period of two months. If the petitioner is found eligible he would be given appointment. However, the petitioner would not be entitled for back wages."

Therefore, the case of the applicants would be governed by the final direction given in Writ Petition (C) No. 232/1999, reproduced hereinabove. On the same lines, these applications stand disposed of. Order stands thus modified to the aforesaid extent only with regard to applicants. Parties to bear their respective costs."

6) In view of the foregoing, it is clear that the application was allowed and the Writ Petition (Civil) No. 370 of 2007 was disposed-of in terms of the order dated 29.07.2009 in Writ Petition (Civil) No. 232 of 1999. The case of respondent No. 3 (Mr. Mahesh Kumar Jigani) was required to be considered by the State Government in terms of the directions as issued in the case of '*Rajesh Kumar Daria v. Rajasthan Public Service Commission and Others*'¹. In the said context, the directions issued in the case of *Rajesh Kumar Daria* (supra), in particular, paragraph 13 thereof, are relevant and therefore, reproduced as thus:

"13. In view of the above and in view of available vacancies, we deem it just and proper to accommodate those three candidate without disturbing the selections and appointments already made, to do complete

1 (2007) 8 SCC 785

justice, in the following manner:

13.1 Sunil Kumar Gupta (general category candidate with 184 marks) and Mohan Lal Soni (OBC candidate with 169 marks), who ought to have been selected in the 2001 selection list, and who were denied appointment in view of excess selection of woman candidates, shall be deemed to have been selected by RPSC. Their seniority for all purposes will however be counted only from the date of actual appointment.

13.2 Rajesh Kumar Daria (OBC candidate with 171 marks) was also not selected because of the selection of excess woman candidates. He ought to have been selected and appointed in the 2001 selection. We are told that Rajesh Kumar Daria got selected in the subsequent 2005 examination and was appointed in the Rajasthan Judicial Service on 12.02.2005. Considering the above fact, we direct that he should be given his position in the 2001 selection list. Interests of justice would be served if he is placed as the last candidate in the 2001 selection list. As he worked from 12-2-2005, we make it clear that such retrospective seniority will not entitle him to any monetary benefits, but will only be counted for promotions and pensionary benefits."

7) Thus, it is clear that the case of respondent no. 3 was required to be considered in terms of the directions as issued by this Court vide order dated 21.09.2010 on applying for modification of the order. The net result of the operative

direction was to consider his case in terms of the judgment in *Rajesh Kumar Daria* (supra).

8) In consequence, Addendum Notification was issued by the Karnataka Public Service Commission on 07.02.2011 directing his appointment as Assistant Superintendent of Prisons. In the said order, reference of fixing his seniority has also been made.

9) In our view, once the direction was to consider the case of respondent No. 3 in terms of directions in *Rajesh Kumar Daria* (supra), then, such directions should have been strictly adhered to by the State Government. Taking note of the same, it is seen that the State has rightly put note/letter dated 18.03.2016 and issued the revised seniority list dated 21.05.2016, which were put to challenge by respondent No. 3 before the State Administrative Tribunal. The challenge was allowed by the Tribunal and affirmed by the High Court *vide* impugned leading to the present appeal.

10) In our considered opinion, once the directions were clear, the Tribunal and the High Court committed error in following the ratio of *Rajesh Kumar Daria* (supra) in true sense. At this stage, it is pertinent to observe that neither the memo of W.P. (C) No. 370 of 2007 filed by respondent No. 3 has been placed on record to ascertain as to what relief was sought by him in the previous round of litigation, nor the I.A. No. 3 in W.P. (C) No. 370/2007 seeking modification has been placed. Therefore, in the interest of justice, in this case, we follow the judgment and directions of the *Rajesh Kumar Daria* (supra) *stricto sensu*.

11) In the said view of the matter, the findings as recorded by the Tribunal and the High Court stand set aside and appeals stand allowed. We direct that para 13.2 in the case of *Rajesh Kumar Daria* (supra) as quoted hereinabove shall strictly be followed by State while maintaining the seniority of the appellants and respondent No. 3. The State Government shall do the needful within a

period of three months.

12) Pending application(s), if any, shall stand disposed of.

..... J.
[J.K. MAHESHWARI]

..... J.
[VIJAY BISHNOI]

New Delhi;
October 28, 2025.

ITEM NO.14

COURT NO.3

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 6350-6351/2022

[Arising out of impugned final judgment and order dated 18-06-2021 in WP No. 29110/2018 18-06-2021 in WP No. 29111/2018 passed by the High Court of Karnataka at Bengaluru]

SURESH. K & ANR.

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

(IA No. 271869/2024 - EXEMPTION FROM FILING O.T. and IA No. 52322/2022 - EXEMPTION FROM FILING O.T. and IA No. 278784/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 268724/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 28-10-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) :

Mr. Rahul Kaushik, Sr. Adv.
Mr. Anil C Nishani, Adv.
Mr. Vishwesh R Murnal, Adv.
Mr. Kushal U, Adv.
M/S. Krishna & Nishani Law Chambers, AOR

For Respondent(s) :

Mr. Nishanth Patil, AAG.
Mr. D. L. Chidananda, AOR
Mr. Awanish Gupta, Adv.
Mr. Arijit Dey, Adv.
Mr. Bhumi Agarwal, Adv.
Mr. Abhishek Gupta, Adv.

Mr. Rajesh Mahale, Sr. Adv.
Mr. Parikshith Maliye, Adv.
Ms. Panchami Mahlae, Adv.
Ms. Anuradha Bhat, Adv.
Mr. Harisha S.r., AOR

UPON hearing the counsel the Court made the following

O R D E R

- 1) Leave granted.
- 2) The appeals stand allowed in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)
AR-cum-PS

(NAND KISHOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]

