



IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 21ST DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 106142 OF 2024 (S-KSRTC)

R

BETWEEN:

SRI. CHANDRASHEKHAR
S/O SHIVAPPA GOSALADODDI,
AGED ABOUT. 33 YEARS
OCC. KST CONSTABLE, KKRTC,
KUKANOR DEPOT,
KOPPAL DIVISION
DIST. KOPPAL -583231.

...PETITIONER

(BY SRI. RAVI HEGDE, AND
SRI. VINAY KUMAR BHAT, ADVOCATES)

AND:

THE DIVISIONAL CONTROLLER/
DISCIPLINARY AUTHORITY,
KKRTC, KOPPAL DIVISION,
DIST. KOPPAL-583231

...RESPONDENT

(BY SRI. PRASHANT S. HOSAMANI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA IS PRAYING TO, A) ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER WRITE OR ORDER QUASHING THE SUSPENSION ORDER DATED 01/07/2024 IN NO.KA.KA.RA.SA/KO.VI/SHI.SHA/653/2024/1765/2024, VIDE ANNEXURE-B, PASSED BY THE RESPONDENT, AND B) CONSEQUENT UPON QUASHING THE AFORESAID ORDER, AS A SEQUEL DIRECT THE RESPONDENT TO PUT BACK THE PETITIONER IN THE SAME POST AND SAME PLACE EARLIER TO IMPUGNED ORDER, AND C) ISSUE ANY OTHER WRIT OR ORDER AS THIS HON BLE COURT MAY DEEM FIT IN CIRCUMSTANCES OF THE CASE INCLUDING THE COST, IN THE ENDS OF JUSTICE.



THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY,
THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

1. The petitioner is before this Court calling in question an order of suspension dated 01.07.2024, passed by the respondent, by which the petitioner is placed under suspension and seeks a consequential order, to put the petitioner back to the same post held by him, earlier to the order of suspension.

2. Heard Sri.Ravi Hegde, learned counsel appearing for the petitioner and Sri.Prashant S. Hosamani, learned counsel appearing for the respondent.

3. Facts in brief, germane, are as follows:

The petitioner is appointed as KST constable at Koppal Division on 13.05.2016. Due to shortage of staff at the respondent - Kalyan Karnataka Road Transport Corporation, the petitioner was transferred to work in the respondent - Corporation. On 23.04.2024, a vigilance report comes alleging that the petitioner was found sleeping while on duty. The sleeping of the petitioner was



video graphed and circulated on social media. Based upon the said videos being circulated in WhatsApp groups or social media, the concerned authority records the statement of the petitioner as to the reason for his sleeping. The petitioner tenders his statement that he has taken medicine as per the advice of the doctor and he is in continuous duty in second and third shifts and therefore, he has taken a power nap of ten minutes. He was then asked to leave the depot and come back the next day.

4. The Vigilance Department appears to have submitted a report that there were only three KST constables in the depot; the workload on the exiting staff is extremely high and suggested to appoint two more constables for the purpose of smooth functioning of the depot. Based upon the circulation, the petitioner was placed under suspension and the reason for suspension is sleeping while on duty.

5. The learned counsel for the petitioner would vehemently contend that the petitioner was made to work



in double shifts for close to one month. He had become too very exhausted and has taken a power nap due to such exhaustion. He would further contend that the Vigilance Department itself has submitted a report to the Divisional Controller indicating that there are only three constables and the depot needed 2 or 3 more. Despite this, the petitioner was made to repeatedly work in repeated shifts continuously and therefore, the deprivation of sleep, has made the petitioner to sleep. He seeks quashment of the order.

6. The learned counsel representing the respondent submits that the petitioner was caught while he was sleeping on duty. It is the further case that the petitioner sleeping was video graphed and circulated on social media, this brought disrepute to the Corporation and therefore, he was placed under suspension. Learned counsel for the respondent though refutes the submission of the learned counsel for the petitioner, is not in a position to dispute the fact that the petitioner was made to



work continuously on repeated shifts, as all are a matter of record.

7. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

8. The aforesaid narrated facts are not in dispute. The issue is, the incident that happens on 23.04.2024, when the petitioner is caught taking a nap on duty. He is therefore, placed under suspension on 01.07.2024. The order of suspension reads as follows:

"ಕಲ್ಯಾಣ ಕರ್ನಾಟಕ ರಸ್ತೆ ಸಾರಿಗೆ ನಿಗಮ, ಕೊಪ್ಪಳ ವಿಭಾಗ

ಸಂಖ್ಯೆ:ಕಕರಸಾ/ಕೋವಿ/ಶಿಶಾ/653/2024/7165/2024

ದಿನಾಂಕ: 01.07.2024.

* ಅಮಾನತ್ತು ಆದೇಶ *

ವಿಷಯ:- ಶ್ರೀ.ಚಂದ್ರಶೇಖರ, ಕ.ರಾ.ಸಾ.ಪೇದೆ, ಕುಕನೂರ ಘಟಕರವರ
ಕರ್ತವ್ಯದ ಅವಧಿಯಲ್ಲಿನ ನಿರ್ದಿಸುತ್ತಿರುವ ಕುರಿತು
ಉಲ್ಲೇಖ:-ವಿಭಾಗೀಯ ಭದ್ರತಾ ನಿರೀಕ್ಷಕ ಕಕರಸಾ ನಿಗಮ ಕೊಪ್ಪಳ ವಿಭಾಗ
ರವರ ವರದಿ ಸಂ:111/2024-25 ದಿನಾಂಕ:18.06.2024.

ಉಲ್ಲೇಖಿತ ವರದಿಯ ಆಧಾರದ ಮೇಲೆ ಶ್ರೀ.ಚಂದ್ರಶೇಖರ,
ಕ.ರಾ.ಸಾ.ಪೇದೆ, ಕುಕನೂರ ಘಟಕರವರು ದಿನಾಂಕ 07.06.2024
ರಂದು ಒಂದನೇಯ ಪಾಳೆಯಲ್ಲಿ ಸಮಯ ರಾತ್ರಿ 00:00 ರಿಂದ 08:00



ರವರೆಗೆ ಅವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯದ ಮೇಲಿರುವಾಗ ಸಮಯ ಸುಮಾರು 05:45ರಲ್ಲಿ ಕರ್ತವ್ಯದಲ್ಲಿರುವಾಗಲೇ ಮಲಗಿಕೊಂಡಿರುತ್ತಾರೆ. ಇದರ ಬಗ್ಗೆ ಚಿತ್ರೀಕರಿಸಲಾದ ವೀಡಿಯೋ ತುಣುಕು ಸಾಮಾಜಿಕ ಜಾಲತಾಣದಲ್ಲಿ ಹರಿದಾಡಿ ಸಂಸ್ಥೆಯ ಬಗ್ಗೆ ಕೆಟ್ಟ ಹೆಸರು ಬರಲು ಸಹ ಅವಕಾಶವಾಗಿರುತ್ತದೆ.

ಕಾರಣ ಸದರಿ ಗಂಭೀರ ಲೋಪದ ಕುರಿತು ಸದರಿ ಸಿಬ್ಬಂದಿಯನ್ನು ವಿಚಾರಣಾ ಪೂರ್ವ ಅಮಾನತ್ತುಗೊಳಿಸುವುದು ಸೂಕ್ತವೆಂದು ಪರಿಗಣಿಸಿ, ಕ.ರಾ.ರ.ಸಾ.ಸಂಸ್ಥೆ, ನಡತೆ ಮತ್ತು ಶಿಸ್ತು ನಿಯಮಾವಳಿಗಳು-1971ರ ನಿಬಂಧನೆ 21ರನ್ವಯ ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಸೇವೆಯಿಂದ ವಿಚಾರಣಾಪೂರ್ವ ಅಮಾನತ್ತಿನಲ್ಲಿರಿಸಲಾಗಿದೆ.

ಅಮಾನತ್ತಿನ ಅವಧಿಯಲ್ಲಿ ನೌಕರಿನಿಗೆ ಅನ್ವಯಿಸುವ ನಿಯಮಗಳು

1. ಸದರಿಯವರು ಕೆಲಸದ ಮೇಲೆ ಇದ್ದಾಗ ದಿನನಿತ್ಯದ ಭತ್ಯೆಗಳನ್ನು ಬಿಟ್ಟು ಅವರು ಪಡೆಯುವ ಒಟ್ಟು ಮೊತ್ತದ ಸಂಬಳ ಅಥವಾ ವೇತನದ ಶೇಕಡಾ 50 (ಐವತ್ತು) ರಷ್ಟು ಮೊತ್ತವನ್ನು ಅಮಾನತ್ತಿನ ಅವಧಿಯಲ್ಲಿ ಜೀವನಧಾರ ಭತ್ಯೆಯನ್ನು ನೀಡಲಾಗುವುದು.
2. ಅಮಾನತ್ತು ಅವಧಿಯಲ್ಲಿ ಬೇರೆ ಕಡೆ ಕೆಲಸ, ವ್ಯಾಪಾರ, ಉದ್ಯೋಗ ಅಥವಾ ವೃತ್ತಿಯನ್ನು ಮಾಡುತ್ತಿಲ್ಲವೆಂದು ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿದ ನಂತರವೇ ಜೀವನಧಾರ ಭತ್ಯೆಯನ್ನು ಕೊಡಲಾಗುವುದು.
3. ಅಮಾನತ್ತಿನ ಅವಧಿಯಲ್ಲಿ ಪ್ರತಿ ದಿನವೂ ತಮ್ಮ ಕಾರ್ಯಸ್ಥಾನಕ್ಕೆ ಹಾಜರಾಗಿ ಹಾಜರಾತಿಯನ್ನು ನೀಡಿದ್ದಲ್ಲಿ ಮಾತ್ರ ಜೀವನಧಾರ ಭತ್ಯೆಯನ್ನು ಕೊಡಲಾಗುವುದು.
4. ಶಿಸ್ತುಪಾಲನಾಧಿಕಾರಿಗಳ ಲಿಖಿತ ಅನುಮತಿ ಇಲ್ಲದೆ ಅಮಾನತ್ತಿನ ಅವಧಿಯಲ್ಲಿ ಅವರು ತಮ್ಮ ಕಾರ್ಯಕ್ಷೇತ್ರ ಬಿಡತಕ್ಕದ್ದಲ್ಲ. ಸದರಿಯವರಿಗೆ ಈ ಕಛೇರಿಯಿಂದ ಅಂಚೆ ಮೂಲಕ ವಿನಾದರೂ ಪತ್ರ ವ್ಯವಹಾರಗಳು ಮಾಡಬೇಕಾದಲ್ಲಿ ಅವಶ್ಯವಿರುವ ಅವರ ಅಂಚೆ ವಿಳಾಸವನ್ನು ಕೊಡತಕ್ಕದ್ದು ಹಾಗೇನಾದರೂ ಅಂಚೆ ವಿಳಾಸ ಕೊಡಲು ವಿಫಲರಾದರೆ ಕಛೇರಿಯ ಕಡತದಲ್ಲಿ ಲಭ್ಯವಿರುವ ಅಂಚೆ ವಿಳಾಸಕ್ಕೆ ಕಳುಹಿಸಿಕೊಡಲಾಗುವುದು. ಈ ರೀತಿ ಕಳುಹಿಸಿರುವ ಪತ್ರಗಳು ಸದರಿಯವರಿಗೆ ತಲುಪದೆ ವಿಳಾಸದವರು ಯಾರು ಇಲ್ಲ ಅಥವಾ ಪತ್ರ ಕೊಡಲು ಹೋದ ವೇಳೆಯಲ್ಲಿ ಇವರು ಸಿಗಲಿಲ್ಲವೆಂಬ ಷರಾದೊಂದಿಗೆ ಲಕೋಟೆ ಮರಳಿ ಬಂದಲ್ಲಿ ಸದರಿಯವರಿಗೆ ಪತ್ರಗಳು ತಲುಪಿವೆ ಎಂದು ಭಾವಿಸಲಾಗುವುದು ಹಾಗೂ ಮುಂದಿನ ಕ್ರಮ ಜರಗಿಸಲು ಅದು ಯಾವುದೇ ರೀತಿಯ ಪ್ರತಿಬಂಧಕವಾಗುವುದಿಲ್ಲ.

ಸಹಿ/-

ವಿಭಾಗೀಯ ನಿಯಂತ್ರಣಾಧಿಕಾರಿ

(ಶಿಸ್ತು ಪಾಲನಾಧಿಕಾರಿ)

ಕಕರಸಾ.ನಿಗಮ, ಕೊಪ್ಪಳ ವಿಭಾಗ, ಕೊಪ್ಪಳ."

(Emphasis added)



The reasons for suspension are that, he was sleeping while on duty and the image of the Corporation is reduced by said act. Charge sheet is also filed after the petitioner placing under suspension on the same ground.

9. The duty of a KST constable in the Corporation is for 8 hours in a day. Three constables complete 24 hours duty of 8 hours each. Due to heavy workload, it is an admitted fact that the petitioner was asked to do double duty, that is, two shifts on continuous basis : 16 hours a day. This is said to have gone on for 60 continuous days. Therefore, the sleep of the petitioner is what has become the fulcrum of the allegation. The averment in the application seeking vacation of the interim order, does not deny the fact that the petitioner was made to work for 16 hours in a day for 60 days, that would be continuous double shifts for 60 days.

10. It is trite, if a person is asked to over work than his capacity, the body sometimes makes the said person to sleep, as sleep and work life balance is what is



necessary today. It may be a constable today, tomorrow it can be anybody. Depriving sleep to any human being, will lead falling sleep anywhere. Therefore, sleep and leisure are considered an important facets of the balance that is to be stuck between work and life. It becomes germane to notice the articles of the Universal Declaration of Human Rights.

“Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

(Emphasis supplied)

In the light of Article 24 as afore-quoted, depicts everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. The covenants in the International Labour Organization to which the Nation is a part, recognizes the work and life balance. The hours of work should not exceed 48 hours in a week and 8 hours in a



day, except in exceptional circumstances, is what is indicated.

11. It becomes apposite to refer to the judgment of the High Court of Calcutta in the case of **BIRANGANA RELIGIOUS SOCIETY V. STATE** reported in **1996 SCC OnLine Cal 132**, wherein it is held as follows:

"....

19. Amplifier and microphone create, tremendous noise and sounds which may travel at least half to one kilometre away. Having regard to the provisions of Art. 19(1)(a) of the Constitution, it cannot be said that the District Magistrate, Sub-divisional Officer and the Police authorities are the sole authority who can grant at will permission without having any regard to the fundamental rights of the fellow citizens. Such authorities, by granting permission to display microphone, cannot make the public the captive listeners. **The citizens have a right to enjoy their lives in the way they like, without violating any of the provisions of the law. A citizen has a right to leisure, right to sleep, right not to hear and right to remain silent.** He has also the right to read and speak with others. Use of microphones certainly takes away the right of the citizens to speak with others, their right to read or think or the right to sleep. There may be heart patients or patients suffering from nervous disorder may be compelled to bear this serious impact of sound pollution which has had an adverse effect on them. It may create health problems."

(Emphasis supplied)



Again, the High Court of Calcutta reiterating the same view, in the case of **BURRABAZAR FIRE WORKS DEALERS ASSN. V. COMMISSIONER OF POLICE, CALCUTTA** reported in **1997 SCC OnLine Cal 321**, has held as follows:

"64. Under our Constitution, people has a right to sleep and leisure. Disruption or disturbance in sleeps creates mental stress, deficient in working efficiency and other things.

65. Interference with rest or sleep and the factor associated with it — lack of concentration, irritability reduced efficiency — is one of the most obvious and annoying effects of noise. Sleep is a psysiological necessity and therefore, health may be adversely affected by insufficient sleep. Apart from health, apart from deafness it affects the digestive sysem, cardiovoscular disturbance in cardiovoscular system (circular) etc. So this is the only views of all the authorities on the subject including Christopher N. Phenn and other Medical Journals."

(Emphasis supplied)

In the afore-quoted judgment, the High Court of Calcutta recognises that under the Constitution of India, the people have a right to sleep and leisure. Disruption or disturbance in sleep creates mental stress and deficiency in working efficiency, among other things.



12. Later, a division bench of the High Court of Uttarakhand in the case of **Arun Kumar Bhadoria v.State and Others** reported in **2018 SCC OnLine Utt** 471, has held as follows:

"34.... Legal provisions to regulate the length of duty hours for working classes exist in a large number of countries. There are also international conventions and other instruments, laying down norms and rules for work hours and other working conditions, which are required to be followed by countries which ratify such conventions/instruments.

Universal Declaration of Human Rights, adopted in 1948 by the United Nations, deals with the subject in its Articles 23 and 24. Article 23 provides for right of everyone to 'just and favourable conditions of work'. Article 24 stipulates everyone's 'right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay'. All Member-States of the United Nations Organisation, including India, have an obligation to protect these rights in respect of all their citizens, naturally including those working in police organizations.

The International Labour Organisation (ILO) of which India is a founding Member, has, over the years, elaborated several conventions and declarations aimed at regulating the working conditions of labour and other working classes, including their work hour limits. The ILO's database of Working Time Laws is a comprehensive source of information on national working time laws of more than 100 countries.²⁵ This database covers all the main elements of working regulations, including hour limits, overtime work, rest periods, public holidays, annual leave, and so on.



The ILO instruments, relevant in our context, include:

1. The Hours of Work (Commerce and Offices) Convention, 1930, extending the 48-hour working week to workers in commerce and offices.

2. The Forty-Hour Week Convention, 1935, establishing a new standard of the 40-hour working week.

3. The Weekly Rest (Commerce and Offices) Convention, 1957, prescribing at least 24 consecutive hours of rest each week.

4. The Holidays with Pay Convention, 1970, stipulating an annual paid holiday of a specified minimum length.

5. The Workers with Family Responsibilities Convention, 1981, prescribing that each Member-State shall make it an aim of national policy to enable persons to engage in employment without being subject to any conflict between their employment and family responsibilities.

In pursuance of the ILO conventions, statutory normal hours of work of various classes of workers have been reduced gradually from 48 hours to 40 hours in a large number of countries. And, a 40-hour week is now the most prevalent standard.

The international standards and legislations in a vast majority of countries now also specify a limit on the number of working hours beyond which overtime payments are to be made. There are additional limits on overtime hours.

Weekly hour limits make a substantial contribution towards preserving workers' health and permitting them to strike an acceptable balance between paid work and domestic as well as other responsibilities. The dominant rationale of such limits has been to ensure adequate non-work, or 'leisure' time, for workers. The 40-hour limit



contributes to a broad range of such objectives, including towards advancing work-life balance.

Weekly rest also is among the most universally accepted elements of working time laws, and almost all countries mandate at least one rest day for all working classes.

According to Sangheon et al, working time policies have long been recognized as having a role in improving productivity. Decent working time arrangements, therefore, need to fulfill five interconnected criteria. They should (a) preserve health and safety of workers, (b) be family friendly, (c) promote gender equality, (d) enhance productivity, and (e) facilitate worker choice and influence overworking hours. Legal provisions for working hours specific to Police United Kingdom

....

In India, no specific law seems to contain provisions relating to working hours for police personnel. However, the Constitution of India itself recognizes the concept in its Article 42, under "Directive Principles of State Policy". This Article specifically enjoins upon the state to make provision for securing 'just and humane conditions of work'. The Constitution also emphasizes that these principles are 'fundamental in the governance of the country' and that 'it shall be the duty of the state to apply these principles in making laws'.

The right to just and favourable conditions of work is also covered in the case law through judgments of the Supreme Court of India in several cases. In *Daily Rated Casual Labour v. Union of India*, the Supreme Court in its judgment held that the right to just and favourable conditions of work was among the rights which had to be ensured by appropriate legislation and executive measures.

In *Vishaka v. State of Rajasthan*, the Apex Court emphatically stated that the right to work with dignity is a universally recognized basic human right and that the common minimum



requirement of this right has received global acceptance.

In *Dharwad District PWD Daily Wages Employees v. State of Karnataka*, the Supreme Court again observed that the right to just and favourable condition of work, among some other similar rights, has to be ensured by appropriate legislation and executive measures.

In *C.E.S.C. Ltd. v. Subhash Chandra Bose*, the Apex Court held that just and favourable conditions of work implies to ensure safe and healthy conditions for workmen."

....

41.Good professional policing, as articulated in the cries for police reform, requires cutting edge level police personnel to exhibit personal attributes like morality, lack of prejudice, problem solving capacity, creativity, spontaneity, and so on. These attributes fall in the realm of 'self-actualisation' needs in the Maslow's hierarchy of needs. Maslow asserts that this category of needs cannot fructify unless the needs lower down in the hierarchy are fulfilled, the relevant ones in the context of police personnel's life are sleep (physiological needs), security of health and of the family (safety needs), friendship and family (needs for love and belonging), and self-esteem, achievement, respect by others (esteem needs). It, thus, needs to be realised that the malaise of inordinately long work hour regime of police personnel, to a large extent, is the root cause of most of the ills dogging good and efficient policing. The problem needs urgent attention.

Perpetuation of such a working hour arrangement holds ugly portents in the short as well as long terms. In the short term, it adversely impacts the quality of day-to-day policing since overworked and overtired personnel are not able to perform to the best of their potential. Inability to maintain a healthy work-life balance affects their morale and motivation, impacting their performance further. The overall frustration results



in their rude and offensive behavior with the public. In the long run, the pent up disgruntlement can have an adverse impact on staff discipline and even more dangerous portents. Grueling and tedious work hour regime can also deter many otherwise right kind of individuals from making a choice for police profession, thus adversely affecting the quality of the manpower available for recruitment. All these points came to be highlighted off and on, in the group discussions and personal interviews conducted during the study.....

....

47. Most of the health problems occurred due to occupational hazards attributed to long hours on job. The long duty hour takes a toll on the morale, motivation and self-esteem of staff. The overall frustration manifests itself in the offensive conduct and behavior with the public at times.

48. It is the duty cast up the State to make provisions for securing just and humane conditions of work under Article 42 of the Constitution of India."

(Emphasis supplied)

The High Court of Uttarakhand in the afore-quoted judgment records all the Universal Declaration of Human Rights, the other covenants in the International Organisations and emphasizes on the importance of periodical rest and sleep.

13. In the light of the Universal Declaration of Human Rights as is noted in all the three judgments of



the High Courts, what would unmistakably emerge is, that the employees in any organization much less, who are working on shifts must have work and life balance. Therefore, no fault can be found with the petitioner sleeping in duty hours, in the peculiar facts of the case. If the petitioner has slept while on duty, when his duty was restricted to a single shift, it would undoubtedly become a misconduct. In the case at hand, the petitioner is made to over work by two shifts of 16 hours, in 24 hours, for 60 long days without break. Therefore, the action of the respondent placing the petitioner under suspension for the folly of the respondent, is undoubtedly an action which suffers from want of bonafides, the order is thus rendered unsustainable and is to be obliterated.

14. For the aforesaid reasons, the following:

ORDER

(a) The writ petition is allowed.



- (b) The order of suspension dated 01.07.2024, passed by the respondent is hereby quashed.
- (c) The petitioner is entitled to all consequential benefits including continuity of service and salary for the period that he was placed under suspension.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE