

IN THE HIGH COURT OF KARNATAKA AT

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF MAY, 2021

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.203599/2016 (S- REG)

C/W

WRIT PETITION No.207316/2015 (S- RES)

WRIT PETITION No.200341/2016 (S- RES)

WRIT PETITION No. 200345/2016 (S- RES)

WRIT PETITION No.200348/2016 (S- RES)

WRIT PETITION No.200870/2016 (L- RES)

WRIT PETITION. No.200933/2016 (L- RES)

WRIT PETITION No.200980/2016 (L- RES)

WRIT PETITION No.201416/2016 (S- REG)

WRIT PETITION No.201417/2016 (S- REG)

WRIT PETITION No.202040 /2016 (S- REG)

WRIT PETITION No.203575/2016 (S- REG)

WRIT PETITION No.203591/2016 (S- REG)

WRIT PETITION No.205879/2016 (S- REG)

WRIT PETITION No.205880/2016 (S- REG)

WRIT PETITION No.205883/2016 (S- REG)

WRIT PETITION No.203769/2016 (S- REG)

IN WRIT PETITION No.203599/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYAADA NAUKARARA VAKOOTTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAABE/

R

KASAKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR - 586101.

... PETITIONER

(BY SRI SANJAY M JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY
ITS PRINCIPAL SECRETARY
DEPARTMENT OF HORTICULTURE
/SERICULTURE, VIKAS SOUDHA,
BENGALURU – 560 001
2. THE COMMISSIONER CUM DIRECTOR OF
SERICULTURE
DEPARTMENT OF SERICULTURE
5TH FLOOR, M.S. BUILDING,
BENGALURU – 560 027.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS
VIKAS SOUDHA, BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH

SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO HOLD AND DECLARE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013, AT ANNEXURE - C ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(A) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND ETC..

IN WRIT PETITION No.207316/2015

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR - 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR - 586101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS

PRINCIPAL SECRETARY
DEPARTMENT OF
HORTICULTURE/ SERICULTURE,
VIKAS SOUDHA,
BENGALURU – 560 001.

2. THE COMMISSIONER CUM
DIRECTOR OF SERICULTURE,
DEPARTMENT OF SERICULTURE,
5TH FLOOR, M.S.BUILDING,
BENGALURU – 560 027.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
HOLD AND DECLARE THAT THE RULE 4(3) OF THE
KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES,
2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF
THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
ACT, 2012, IN THE INTEREST OF JUSTICE AND EQUITY.

IN WRIT PETITION No.200341/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,

AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR - 586101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF SOCIAL WELFARE,
VIKAS SOUDHA,
BENGALURU - 560 001.

2. THE COMMISSIONER
DEPARTMENT OF SOCIAL WELFARE,
5TH FLOOR, M.S.BUILDING,
BENGALURU - 560 027.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.200345/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE

KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF INDUSTRIES
AND COMMERCE,
VIKAS SOUDHA,
BENGALURU – 560 001.
2. THE CHIEF EXECUTIVE OFFICER
DEPARTMENT OF KHADI & VILLAGE
INDUSTRIES BOARD, KHADI BHAVAN,
NO.10, JASMA BHAVAN ROAD,
BENGALURU – 560 027.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A)
HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF

THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.200348/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF WATER
RESOURCES DEVELOPMENT,
VIKAS SOUDHA,
BENGALURU – 560 001.

2. THE CHIEF ENGINEER
WATER RESOURCE DEVELOPMENT
ORGANIZATION,
ANAND RAO CIRCLE,
BENGALURU – 560 009.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.200870/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF PWD & IWT SERVICE
VIKAS SOUDHA, BENGALURU – 560 001.
2. THE CHIEF ENGINEER
PWD & IWT NORTH CIRCLE,
SIR M VISHWESHWARAYYA ROAD,
DHARWAD – 580 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.200933/2016**BETWEEN**

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA AND ANR
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF PWD & IWT SERVICE
VIKAS SOUDHA
BENGALURU -560001
2. THE CHIEF ENGINEER
DEPARTMENT OF MINOR IRRIGATION,
BAGALKOT ROAD, OPP. KEB,
VIJAYAPUR - 586 101.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
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A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.200980/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
VETERINARY & ANIMAL HUSBANDARY,
VIKAS SOUDHA,
BENGALURU – 560 001.
2. THE COMMISSIONER
VETERINARY & ANIMAL HUSBANDARY
SIR M VISHWESHWARAYYA TOWER
DR.AMBEDKAR ROAD,
BENGALURU.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.201416/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST,
VIKAS SOUDHA,
BENGALURU – 560 001.
 2. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS,
DEPARTMENT OF FOREST,
ARANYA BHAVAN, MALLESHWARAM,
BENGALURU- 560 003.
- ... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
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A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.201417/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,

H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF
HORTICULTURE/SERICULTURE
VIKAS SOUDHA,
BENGALURU – 560 001.

2. THE COMMISSIONER CUM
DIRECTOR OF SERICULTURE
DEPARTMENT OF SERICULTURE,
5TH FLOOR, M.S. BUILDING,
BENGALURU – 560 027.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
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A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.202040/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOO'FA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF RURAL DEVELOPMENT &
PANCHAYAT RAJ, M.S. BUILDING,
VIKAS SOUDHA
BENGALURU – 560 001.

2. THE CHIEF ENGINEER
DEPARTMENT OF
PANCHAYAT RAJ ENGINEERING,
GRAMEENA ABHIVRUDDHI BHAVAN,
ANAND RAO CIRCLE,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013, ARE ULTRA VIRES TO SECTIONS 4(2) AND
2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES
WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.203575/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS

PRINCIPAL SECRETARY,
DEPARTMENT OF MINOR IRRIGATION,
VIKAS SOUDHA,
BENGALURU – 560 001.

2. THE CHIEF ENGINEER
DEPARTMENT OF MINOR IRRIGATION
BAGALKOT ROAD, OPP KEB,
VIJAYAPUR – 586 101.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS,
VIKAS SOUDHA,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF
THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013 ,AT ANNEXURE 'C' ARE ULTRA VIRES TO
SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE
EMPLOYEES WELFARE ACT, 2012 AT ANNEXURE 'B' AND
ETC.,

IN WRIT PETITION No.203591/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COOLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/

KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVCCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF PWD & IWT SERVICE,
VIKAS SOUDHA, BENGALURU – 560 001.
2. THE CHIEF ENGINEER
PWD & IWT, NORTH CIRCLE,
SIR M VISHWESHWARAYYA ROAD,
DHARWAD – 580 001.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRICIPAL SECRETARY
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIKAS SOUDHA, BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013 ,AT ANNEXURE 'C' ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND ETC.,

IN WRIT PETITION No.205879/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/C SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF RURAL
DEVELOPMENT & PANCHAYAT RAJ,

M.S.BUILDING,
BENGALURU – 560 001.

2. THE CHIEF ENGINEER,
DEPARTMENT OF PANCHAYAT RAJ
ENGINEERING,
GRAAMEENA ABHIVRUDDHI BHAVAN,
ANAND RAO CIRCLE, BENGALURU - 560027.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIKAS SOUDHA, BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013 , OF ANNEXURE 'C' TO BE ULTRA VIRES TO
SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE
EMPLOYEES WELFARE ACT, 2012 VIDE ANNEXURE 'B'
AND ETC.,

IN WRIT PETITION No.205880/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS

HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST,
VIKAS SOUDHA,
BENGALURU - 560 001.
2. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS
DEPARTMENT OF FOREST,
ARANYA BHAVAN, MALLESHWARAM,
BENGALURU – 560 003.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIKAS SOUDHA,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013 , AT ANNEXURE 'C' ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AT ANNEXURE 'B' AND ETC.,

IN WRIT PETITION No.205883/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINA COCLIE
KSHEMA ABHIRUDDHI VIDHEYAKA DADI
NEMA NUKI YADA NAUKARARA VAKOOTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR - 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/C SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR - 586101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PWD & IWT SERVICE,
VIKAS SOUDHA, BENGALURU - 560001.

2. THE CHIEF ENGINEER
PWD & IWT, NORTH CIRCLE,
SIR M VISHWESHWARAYYA ROAD,
DHARWAD – 580 001.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIKAS SOUDHA, BENGALURU – 560 001.

... RESPONDENTS

(BY SRI Y.H.VIJAYAKUMAR, AAG ALONG WITH
SMT.ANURADHA M.DESAI, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013 , AT ANNEXURE 'C' ARE ULTRA VIRES TO SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AT ANNEXURE 'B' AND ETC.,

IN WRIT PETITION No.203769/2016

BETWEEN

KARNATAKA RAJYADA YELLA DINAGOOOLIE
KSHEMABHIRUDDHI VIDHEYAKADADI
NEMANUKIYADA NAUKARARA VAKOOTTA,
VIJAPUR, A REGISTERED LABOUR UNION
BEARING REG. NO. SAKAAAABE/
KASAMKAA/BEVI-15/2015 HAVING ITS
HEAD OFFICE AT: C/O S I HIPPARAGI,
H NO.2426, WARD NO 24, KAMAN KHAN BAZAR,
VIJAYAPUR – 586 101.

REPRESENTED BY ITS PRESIDENT:
ABDULGANI S/O MURUTJASAHEB PATIL,
AGE: 54 YEARS, OCC: GOVT. SERVICE,
R/O SERICULTURE EXTENSION OFFICER,
TECHNICAL SERVICE CENTRE,
VIJAYAPUR – 586 101.

... PETITIONER

(BY SRI SANJAY M.JOSHI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST,
VIKAS SOUDHA,
BENGALURU – 560 001.
2. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS
DEPARTMENT OF FOREST,
ARANYA BAHVAN, MALLESHWARAM,
BENGALURU – 560 003.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIKAS SOUDHA,
BENGALURU – 560 001.

... RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
A) HOLD AND DECLARE THAT THE RULES 4(3) AND 4(4)
OF THE KARNATAKA DAILY WAGE EMPLOYEES WELFARE
RULES, 2013 , AT ANNEXURE 'C' ARE ULTRA VIRES TO
SECTIONS 4(2) AND 2(a) OF THE KARNATAKA DAILY WAGE

EMPLOYEES WELFARE ACT, 2012 AT ANNEXURE 'B' AND ETC.,

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 22.04.2021, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING :-

ORDER

These **cluster** of petitions are filed by the Associations comprising of daily wage employees seeking to declare among others Rules 4(3) and 4(4) of the Karnataka Daily Wage Employees Welfare Rules, 2013 (herein after referred to as 'the Rules' for short) as ultra vires to Sections 2(a) and 4(2) of the Karnataka Daily Wage Employees Welfare Act, 2012 ('the Act' for short) and have called in question those Government orders/memoranda issued from time to time, which run counter to the provisions of the Act and the Rules resulting in taking away certain benefits available to the petitioners thereunder.

2. Sans unnecessary details, brief facts leading to the filing of present petitions, as borne out from the

pleadings, which are almost similar in all the cases, are as follows:-

Petitioner is a Union of daily wage employees working in various departments of Government and Corporations which are under the control of Government. The limited grievance of the petitioners in all these cases is that the Government after promulgation of the Act and the Rules framed thereunder issued Government orders and memoranda taking away the benefits conferred upon such employees under the Act. Since the grievance is concerning Government orders/Memoranda which run counter to the Act, no other facts pertaining to the employees are narrated. It is not in dispute that all the employees in all these petitions who are a part of the petitioners have completed 10 years of service and have been brought under the Act.

3. Heard Sri Sanjay M. Joshi learned counsel along with Sri D.P. Ambekar, learned counsel for petitioners and Sri Y.H.Vijayakumar, learned Additional Advocate General along with Smt. Anuradha M.Desai, learned Government Advocate for respondents.

4. The learned counsel Sri Sanjay Joshi submits that the Act in unequivocal terms granted certain benefits to the employees who were brought under the Act by framing Rules under the Act. After framing of the Rules, various Official Memoranda are issued by the respective departments where the employees are working at their whim and fancy, all contrary to the Act. It is his submission that the benefit that is conferred on daily wage employees under the Act is taken away by Official Memoranda issued which run counter to the Act. He also further submits that the Government order which takes away the benefits accorded under the Act is a nullity in law and will have to be set aside.

4.1. On the other hand, Sri Y.H.Vijayakumar, learned Additional Advocate General representing the State would submit that the grievance of petitioners in so far as it pertains to issuance of notifications/official memoranda by respective departments are all withdrawn by the State by subsequent notifications dated 12-07-2017, 16.05.2019 and 10-01-2020. The learned Additional Advocate General would submit that the said notifications and official memoranda would take care of the grievance of the petitioners as every order that the petitioners have called in question have since been withdrawn and all of them have been issued during the pendency of the writ petitions, as a result of which, the writ petitions are rendered infructuous.

4.2. He would further submit that if any other grievance of the petitioners would subsist, it is open to them to give representations to the respective departments and the departments would consider the

same in accordance with law and would submit that writ petitions be disposed of as having become infructuous.

5. I have given my anxious considerations to the submissions made by the learned counsel appearing for the petitioner and the learned Additional Advocate General and perused the materials on record.

6. Since the issue revolves a round the Act, the Rules and Government orders, the Objects and Reasons and relevant provisions of the Act that are germane for consideration of the *lis* are extracted hereunder for the purpose of ready reference:

“Objects and Reasons for the Enactment

An Act to provide for welfare of daily wage employees working for more than ten years in various establishments in the State.

Whereas, it is expedient to provide for welfare of the daily wage employees working for more than ten years in various

establishments and to give them minimum security of tenure, better wage and certain social security on termination from long public service and for the matters connected therewith or incidental thereto.”

“2. Definitions.- *In this Act, unless the context otherwise requires,-*

(a) "The daily wage employee" means an employee engaged by the Government or local bodies on daily wage basis, who has worked and completed not less than 10 years of service as daily wage employee as on 10th April, 2006 and who is working as such on the date of commencement of this Act;

(b) "The Government" means the Government of Karnataka;

(c) "The Establishment" means an establishment in the Government or in any local bodies;

(d) "Local bodies" mean various Local self Governments, Panchayats and Municipal bodies constituted by law by the Government and in corporations including statutory or non-statutory authorities or Boards and Government undertakings.

3. Continuation of daily wage employees.-

*(1) Subject to provisions of this Act, the daily wage employees in the establishments whose names are notified by the Government under this Act, **shall be continued on daily wage basis till they complete the age of sixty years.***

Provided that no daily wage employee shall be continued unless he possessed the qualification prescribed for the post on the date of his initial engagement on daily wage basis;

(2) The State Government shall within one year from the date of commencement of this Act notify the names of eligible daily wage employees

of all establishments for the purpose of subsection (1).

4. Pay, leave and terminal benefits of daily wage employees continued in service.- (1) Notwithstanding anything contained in the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990), the Karnataka Civil Services Rules or any other rules governing the conditions of service of Government servants made or deemed to have been made under the said Act. **The pay of a daily wage employee shall be the minimum of the time scale of pay of the post in which he is continued in service. He shall also be paid admissible Dearness Allowance and House Rent Allowance as may be determined by the Government, by order, from time to time. A daily wage employee shall be entitled for all General Holidays, Casual Leave of fifteen days and Earned Leave of thirty days per year.** A daily wage employee may be given an increase in his pay at such interval of time as may be determined by the Government, by order.

(2) The daily wage employee shall be entitled for such terminal benefits or ex-gratia, on his discontinuance after attaining the age of Sixty years, as may be determined and notified by the Government from time to time.”

... ..

11. Power to make rules.- (1) The Government may, by notification and after previous publication, make rules to regulate other conditions of service of daily wages and for the purposes of this Act.

(2) Every rule made under this Act, every notification or order under this Act shall be laid as soon as may be after it is made before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree that the rule notification or order should not be made the rule, notification or order shall thereafter have effect only

in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.”

The objects and reasons (supra) would clearly indicate that it is promulgated for better welfare of daily wage employees working in various establishments of Government and Corporations to give minimum security of tenure, better wage and certain social security on termination from long public service. Therefore the spirit behind the enactment was protection of daily wage employees from arbitrary or discriminatory treatment. The condition was that it would be made applicable to those employees who had completed 10 years of service.

7. Section 2 defines who is a ‘daily wage employee’ and what are the establishments covered. In terms of sub-section (a) of Section 2 an employee, would mean to be an employee who is engaged by

Government or local bodies on daily wage basis and has worked for not less than 10 years as on 10-04-2016 i.e., the date on which the judgment in the case of **STATE OF KARNATAKA v. UMADEVI** was rendered by the Apex Court and is functioning in the capacity of a daily wage employee on the date of commencement of the Act. The Act came into force on 15th February 2013 i.e., the date on which it was notified in the official gazette. The 'local bodies' as defined under sub-section (d) of Section 2 would mean various local self Governments, Panchayats and Municipal bodies, statutory or non-statutory authorities or Boards and Government undertakings. Therefore, the Act brings in its sweep the entire functionary of the State, be it service under the State or any wing of Government which would be State under Article 12 of the Constitution of India.

8. Section 3 determines continuance of daily wage employees under the Act. The mandate of Section 3 is

that only those employees can be continued under the Act who possess the requisite qualification for the **post** as on the date of his initial engagement on daily wage basis. Thus, emphasis in terms of Section 3 for continuance of the employee on daily wages for entitlement of benefits under the Act is that he should be qualified to hold the post as on the date of his initial engagement itself.

9. Section 4 of the Act deals with pay, leave and terminal benefits of the employees who are continued in terms of Section 3. Section 4 commences with a non-obstante clause reading, notwithstanding anything contained in the Karnataka Civil Services Act, the pay of a daily wage employee would be fixed at the minimum of the time scale for the post in which he is continued in service; the employee would be entitled to admissible Dearness Allowance; admissible House Rent Allowance as may be determined by Government by order from

time to time; the employee would be entitled to general holidays, casual leave of 15 days and earned leave of 30 days per year; the employee would also be entitled to an increase in pay at such intervals as may be determined from time to time.

10. Sub-section (1) of Section 4, as explained hereinabove, would clearly indicate the benefits that the employee under the Act would get to be on par with corresponding pay of employees in Government, but to be determined by Government from time to time by issuance of Government orders.

11. Sub-section (2) of Section 4 entitles an employee who is discontinued after the age of 60 years to such terminal benefits or ex-gratia as are determined and notified by Government from time to time. Though the word 'discontinuance' is used, it is nothing but a retirement of an employee at the age of 60 years. The

terminal benefits or ex-gratia is a benefit that an employee gets on retirement under the Act.

12. Section 11 deals with power of Government to notify the Rules to regulate conditions of service of daily wage employee for the purpose of the Act. Therefore, every rule made under the Act or every notification or order under the Act is to be in consonance with the provisions of the Act, even insofar as it makes the employee entitled to certain benefits.

13. In terms of Section 11 of the Act the Government has notified the Rules in the year 2013 which came into effect on 30.11.2013. Certain Rules which are germane for consideration of the case at hand are extracted hereunder for the purpose of quick reference:

“1.Title and Commencement: - (1)

These rules may be called the Karnataka Daily Wage Employees Welfare Rules, 2013.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions:- *In these rules unless the context otherwise requires, -*

(a) the “Act” means “The Karnataka Daily Wage Employees Welfare Act, 2012 (Karnataka Act No.19 of 2013);

(b) words and expression used in these rules but not defined shall have the same meaning assigned to it in the Karnataka State Civil Services (General Recruitment) Rules, 1977 or in the Karnataka State Civil Services Act, 1978 or any other rules made thereunder.

3. Continuation of Daily Wage

Employees:- The concerned Administrative Department in the Karnataka Government Secretariat shall within one year from the date of commencement of the Act, notify the names of eligible daily wage employees of all establishments.

4. Terms and Conditions of Daily

Wage Employees:- (1) A Female Daily Wage Employee shall be entitled for maternity leave of 180 days.

(2) A Male Daily Wage Employee shall be entitled for paternity leave of 15 days.

(3) A Daily Wage Employee shall be paid after completion of 60 years of age an ex-gratia of 15 days pay for every completed year of service subject to a maximum of 12 months pay.

(4) New Pension Scheme (NPS) Swavalamban Yojana Administered by the Pension Fund Regulatory and Development

Authority shall be applicable to the Daily Wage Employee.

(5) A daily Wage Employee shall not be entitled for seniority in the cadre in which he is continued in service and he shall not be entitled for any promotion during his remaining service.”

Sub-rule (b) of Rule 2 declares that words and expressions used in these Rules but nowhere defined shall have the same meaning assigned to them under the Karnataka Civil Services (General Recruitment) Rules, 1977 or the Karnataka State Civil Services Act, 1978. Under sub-rule (3) of Rule 4 of the Rules an employee is to be paid ex-gratia of 15 days for every completed year of service subject to a maximum of 12 months of pay of his completion/discontinuance/retirement on attaining the age of 60 years and further the employees are to be brought under the new Pension Scheme. It is further declared that an employee would

not be entitled to seniority in the cadre in which he is continued and shall not be entitled to any promotion during his entire service. Therefore, the benefit to the daily wage employee that is taken away *qua* Government employees is seniority, promotion and applicable facilities to particular posts on promotion that a regular Government servant would be entitled to. It is for this reason the Act and the Rules framed thereunder will have to be considered in its strict sense. The entire submission of the petitioners and counter submissions of Government will have to be considered and decided on the bedrock of the afore-extracted provisions of the Act and the Rules and the explanation thereto.

14. The Government claiming to be acting in furtherance of the Act and the Rules began issuing Government orders from time to time. One such Government order is issued by the State on 19-09-2014.

The admissible Dearness Allowance that the Act gave to daily wage employees is curtailed to 75% under this Government order dated 19-09-2014. Likewise, the Government and its Departments had issued separate Official memoranda declaring certain benefits to its employees or taking away those benefits admissible under the Act. Further, Government issued an order on 10-01-2020 enhancing the Dearness Allowance payable to daily wage employees under the Act from 75% to 90%. Prior to amendment of the Rules and Government orders enhancing the Dearness Allowance a circular was issued by the Government on 12-07-2017 denying earned leave to the employees coming under the Act. All these three events have happened during the pendency of writ petitions. Therefore, the scrutiny is limited to the consideration of Amended Rules and Government orders dated 12-07-2017 and 10-01-2020 which withdrew all earlier Government orders issued under the Act on the subjects under challenge.

15. Government has issued a Notification dated 16-05-2019 amending Rules of 2013 and the amended Rules read as follows:-

*“2. **Amendment of rule 4.** – In the Karnataka Daily Wage Employees Welfare Rules, 2013, in rule 4, for sub-rule (3), the following shall be substituted, namely:-*

*“(3) **Every eligible Daily Wage Employee, shall be paid such amount as Gratuity, as admissible under Section 4 of the Payment of Gratuity Act, 1972 (Central Act 39 of 1972).**”*

***Explanation:** For the purpose of this sub-rule, the entire period of service rendered on daily wage basis as a daily wage employee notified under the Act shall be reckoned for the payment of gratuity.*

The amended Rules of 2019 took away the benefit that was conferred under the 2013 Rules i.e., payment of ex-gratia to the employees which brought the daily wage

employees under the provisions of the Payment of Gratuity Act, 1972 for entitlement of gratuity under Section 4 of the Payment of Gratuity Act.

16. By this amendment, the submission of the learned counsel for the petitioner is that, it is not a new benefit that is granted by the Government and its authorities, as gratuity was always available to daily wage employees who have in fact been paid gratuity under the Payment of Gratuity Act. In the garb of granting this benefit, the benefits that the employees were entitled to have been taken away under the Rules of 2013.

17. In counter to this submission, the learned Additional Advocate General would submit that daily wage employees would not be entitled to gratuity under the Act or under the Karnataka Civil Service Rules. Therefore, he would submit that employees cannot have

dual benefit of gratuity and ex-gratia and the gratuity amount that the employees are entitled to is far beyond what the employees under the Act or the Rules would get.

18. Thus, the consideration will have to be whether the employees who are now brought under the Payment of Gratuity Act for receipt of gratuity would be entitled to ex-gratia as claimed by them notwithstanding payment of gratuity. To consider this, certain provisions of the Payment of Gratuity Act are required to be noticed and are extracted hereunder for the purpose of ready reference:

“2. Definitions.- *In this Act, unless the context otherwise requires, -*

(a)

(e) *"employee" means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled,*

semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, **but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.**

... ..

4. Payment of gratuity.- (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.

Explanation: For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the

employer shall pay gratuity to an employee at the rate of fifteen days wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account.

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days wages for each season.

Explanation:-In the case of a monthly rated employee, the fifteen days wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

(3) The amount of gratuity payable to an employee shall not exceed such amount as maybe notified by the Central Government from time to time.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1), -

(a) the gratuity of an employee, whose services have been terminated for any act, willful

omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

(b) the gratuity payable to an employee may be wholly or partially forfeited –

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

... ..

14. Act to override other enactments, etc.- *The provisions of this Act or any rule made there under shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.”*

Section 2 defines who is an employee. Section 4 determines payment of gratuity to an employee. In terms of Section 2 of the Act employees who are excluded are the ones who are employed under the Central Government or the State Government as the case would be or are governed by any other Act or by any Rules providing for payment of gratuity.

19. The employees under the Act are not regular employees of the State Government. They are employees on daily wages and are continued to function in

Government on daily wages under the provisions of the Act. Therefore, gratuity to daily wage employees was always available *de hors* it being made applicable by way of an amendment to the Rules or otherwise. The State by bringing in an already available benefit to an employee under the provisions of the Rules and taking away the benefits that the employees had under the Act and the Rules of payment of ex-gratia, is unsustainable. The day the benefit of ex-gratia was granted to the employees coming under the Act and the Rules, the gratuity under the Payment of Gratuity Act with the conditions stipulated under the Payment of Gratuity Act was always available to the employees.

20. It is not a new benefit that the State conferred by way of an amendment to the Rules or for the State to contend that bringing in the employees who come under the Act, under the Payment of Gratuity Act is a benevolence conferred, to take away the benefit of

ex-gratia. Therefore, on a plain reading of the Payment of Gratuity Act and the Rules framed thereunder would lead to grant of benefit of gratuity to the employees coming under the Act, more so, in the light of the fact that these employees are not governed by any other Act or any Rules providing for payment of gratuity as the provision of death-cum-retirement gratuity in terms of the Karnataka Civil Service Rules is admittedly not applicable to employees under the Act. Therefore, the action of State in taking away the benefit of ex-gratia on the premise that employees under the Act have been brought under a more beneficial legislation i.e., Payment of Gratuity Act, 1972 , is illegal. It is held that employees are also entitled to payment of ex-gratia in terms of sub-section (2) of Section 4 of the Act and the same is determined by Government from time to time.

Dearness Allowance:

21. The next benefit that is to be considered is with regard to grant of admissible Dearness Allowance. It is trite that Dearness Allowance is an allowance that is given to employees/ officers to compensate them to a certain extent of rise in cost of living. The nature of Dearness Allowance is similar to that of pay granted for the purpose of computing changes in the cost of living or changes in the purchasing power of money. It is given to bridge the gap between the minimum wage and the living wage as far as possible. The object is to neutralize a part of rise in the cost of living. The payment of Dearness Allowance, thus, is admissible to every employee, permanent employee or an employee coming under the Act, as the purpose for such grant remains the same to both the employees working under the State or the Act. The Act grants the employees admissible Dearness Allowance. Admissible Dearness Allowance would unequivocally mean that whatever Dearness

Allowance a Government servant in the corresponding post would get would be the admissible Dearness Allowance under the Rules and Government Orders.

22. Therefore, if a Government servant is entitled to 100% of the Dearness Allowance, it cannot be curtailed to a daily wage employee coming under the Act, as the Act itself confers on the daily wage employee admissible Dearness Allowance, which cannot mean anything but 100% of Dearness Allowance. The very act of the State curtailing it to 75% in the Government order dated 19.09.2014 and enhancing it to 90% in the Government order dated 10-01-2020 is clearly contrary to the Act. It is trite that a benefit that is conferred under the Act cannot be curtailed or taken away by issuance of Government orders. Therefore, in my considered view, the benefit of admissible Dearness Allowance that is conferred on the employees under the Act, would be 100% and cannot be curtailed under

Government orders. Therefore, the employees coming under the Act are entitled to receive Dearness Allowance on par with Government servants, as the Act itself mandates payment of admissible Dearness Allowance determined by Government by orders from time to time. The liberty of determination by Government orders from time to time cannot be used to take away the benefit of admissible Dearness Allowance under the Act.

Earned Leave:

23. The other benefit that falls for consideration is the benefit of earned leave that the Act determined and the Circular dated 12-07-2017 took away. Earned Leave to a Government Servant is regulated under Rule 118 of the KCSRs. Section 4 of the Act granted the employees casual leave of 15 days and earned leave of 30 days per year. Therefore, a daily wage employee also earns earned leave of 30 days per year, like any other Government servant and is entitled to encash his leave

as a Government servant would do, when he ceases to be in employment, on attaining the age of superannuation or otherwise, in accordance with law. As discontinuance of service entitles daily wage employee to get earned leave on his discontinuance which he can encash as leave encashment.

24. The Circular dated 12-07-2017 takes away the benefit of earned leave that the employees would be entitled to under the Act and does not stop at that, it further directs that wherever leave encashment is allowed in the past to daily wage employees should be recovered. This action of the State runs counter to the provisions of the Act and directing recovery of the entitlement of employees is absolutely unsustainable. Therefore, the Government order dated 10-01-2020 which restricts Dearness Allowance to 90% and Circular dated 12-07-2017 which takes away the benefit of

earned leave are *denuded* of their value as they run counter to the Act.

25. It is trite that administrative instructions in the form of official memoranda/circular/Government order cannot run counter to the Act or in effect control the Act, if permitted, would amount to **'tail wagging the dog and not the dog wagging the tail'**. Therefore, the Government order dated 10-01-2020 and the Circular dated 12-07-2017 are rendered unsustainable. Except the aforesaid benefits, none of the other prayers that are sought by the petitioners in these writ petitions sound acceptance. Therefore, the relief that the petitioners are entitled to are only the ones that are considered hereinabove viz., payscales attached to the post, dearness allowance at 100%, earned leave and ex-gratia in terms of the Act and its determination, apart from the petitioners being entitled to payment of gratuity under the Payment of Gratuity Act.

26. It is also germane to consider the judgment of the Apex Court in the case of **STATE OF PUNJAB v. JAGIT SINGH** reported in **(2017) 1 SCC 148**, wherein the Apex Court declared that daily wage employees employed by the State Government would be entitled to equal pay for equal work that they render under the State Government. The Apex Court after observing Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966 has held as follows:-

“57. There is no room for any doubt that the principle of “equal pay for equal work” has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of “equal pay for equal work”

has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

53. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and

at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situated constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

59. We would also like to extract herein Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966. The same is reproduced below:

“7. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:*

- (i) *Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
- (ii) *A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
- (b) *Safe and healthy working conditions;*
- (c) *Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
- (d) *Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”*

(emphasis supplied)

India is a signatory to the above Covenant having ratified the same on 10-4-1979. There

is no escape from the above obligation in view of different provisions of the Constitution referred to above, and in view of the law declared by this Court under Article 141 of the Constitution of India, the principle of “equal pay for equal work” constitutes a clear and unambiguous right and is vested in every employee—whether engaged on regular or temporary basis.

60. Having traversed the legal parameters with reference to the application of the principle of “equal pay for equal work”, in relation to temporary employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of “equal pay for

equal work” summarised by us in para 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals were appointed against posts which were also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the temporary employees concerned were being randomly deputed to discharge duties and responsibilities which at some point in time were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants, that the

respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarised by us in para 42 hereinabove. There can be no doubt, that the principle of “equal pay for equal work” would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a par with the minimum of the pay scale of regularly engaged government employees holding the same post.

61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding that all the temporary employees concerned, in the present bunch of cases would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale), extended to regular employees holding the same post.”

(Emphasis supplied)

In the light of the judgment of the Apex Court in the case of **JAGIT SINGH** (supra), if employees coming under the Act are directed to take a lesser amount of Dearness Allowance than that of Government employees despite doing the same work or are not given the fruits of the Act would itself constitute an act of exploitative enslavement, emerging out of a domineering position and would compel involuntary subjugation.

27. The Act having treated the employees under the Act on par with Government employees insofar as the benefits under Section 4, cannot be rendered illusory by the subsequent acts of Government either in issuing Government orders contrary to the Act or amending the Rules contrary to the Act. ***The soul of the Act being grant of a better wage, social security on cessation of long public service to a daily wage employee, cannot be reduced to a 'rope of sand'.***

28. For the aforesaid reasons, I pass the following:

ORDER

(a) Writ Petitions are allowed in part.

(b) It is declared that the Government orders dated 12.07.2017 and 10.01.2020 insofar as they deny Earned Leave and 100% Dearness Allowance stand obliterated of their value, as they run counter to the Act.

(c) It is declared that the employees coming under the Act are entitled to-

- (i) Dearness Allowance at 100% as is admissible to regular Government employees; and
- (ii) Earned Leave in terms of the Act.

(d) Insofar as it pertains to grant of ex-gratia, the petitioners coming under the Act are at liberty to give a representation within one month from the date of receipt of the copy of this order to the authorities concerned, for consideration and restoration of payment of ex-gratia, which if made, shall be considered bearing in mind the

observations made in the course of this order and appropriate orders be passed in accordance with law, within a period of six months thereafter.

(e) No costs.

**Sd/-
JUDGE**

bkp
CT:MJ