

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

**THE HON'BLE MR. JUSTICE S G PANDIT
AND**

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO.100130 OF 2017

C/W

WRIT APPEAL NO.100176 OF 2017

IN WRIT APPEAL NO.100130/2017:

BETWEEN:

1. THE MANAGEMENT OF KARNATAKA AGRO INDUSTRIES CORPORATION INDIA LTD.,
BY ITS MANAGER, HUBBALLI.
(SINCE CORPORATION IS CLOSED IT IS REPRESENTED BY ITS COMPANY SECRETARY)

THE MANAGEMENT OF KARNATAKA AGRO INDUSTRIES CORPORATION INDIA LTD.,
NO.24, BELLARY ROAD, HEBBAL,
BENGALURU-560024.

2. THE KARNATAKA AGRO INDUSTRIES CORPORATION INDIA LTD.,
BY ITS MANAGING DIRECTOR,
REG. OFFICE, HEBBAL, BENGALURU-560024.

...APPELLANTS

(BY SRI M.B.KANAVI, ADVOCATE.)

AND:

FAKRUDDIN
S/O HATELSAB JAMADAR
AGE: 67 YEARS, OCC: NIL,

R/O ASSAR MOHALLA,
OLD HUBLI, HUBBALLI-580024.

...RESPONDENT

(BY SRI ANANTH P. SAVADI, ADVOCATE.)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 07.10.2016 PASSED BY THIS HON'BLE COURT IN W.P.NO.62470/2010, IN THE INTEREST OF JUSTICE.

IN WRIT APPEAL NO.100176/2017:

BETWEEN:

FAKRUDDIN S/O HATELSAB JAMADAR
AGE: 66 YEARS, OCC: NIL,
R/O ASSAR MOHALLA,
OLD HUBBALLI, HUBBALLI-580024.

...APPELLANT

(BY SRI ANANTH P. SAVADI, ADVOCATE.)

AND:

1. THE MANAGEMENT OF KARNATAKA,
AGRO INDUSTRIES CORPORATION INDIA LTD.,
BY ITS MANAGER HUBBALLI.
2. THE KARNATAKA AGRO INDUSTRIES
CORPORATION INDIA LTD.,
BY ITS MANAGING DIRECTOR,
REG. OFFICE, HEBBAL, BENGALURU-560024.

...RESPONDENTS

(BY SRI M.B. KANAVI, ADVOCATE.)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER PASSED BY LEARNED SINGLE JUDGE IN W.P.NO.62470/2010 DATED 07TH OCTOBER 2016, TO MEET ENDS OF JUSTICE & ETC.,.

THESE WRIT APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 12.12.2025 AND COMING ON

FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **MRS GEETHA K.B., J.** DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

These two appeals are preferred by the management of Karnataka Agro Industries Corporation Limited (for short 'Corporation') and the delinquent employee, respectively, under section 4 of the Karnataka High Court Act, 1961, questioning the order passed by learned single Judge, in W.P.No.62470/2010 dated 07.10.2016.

2. Parties would be referred with their ranks as they were before Labour Court, for sake of convenience and clarity.

3. The claimant has filed a petition before Labour Court challenging his dismissal order dated 28.07.1999. The claimant was working as Junior Assistant in spare parts depot of respondent-Management Corporation and dismissed from service on 28.07.1999 based on the enquiry

conducted against him. There were serious allegations against the claimant that he has committed various acts of commission and omission and misappropriated funds of the Corporation to the tune of ₹2,27,565/- during the period from 01.11.1987 to 31.03.1992. The claimant admitted his guilt and has remitted an amount of ₹50,000/- through DD to the management and as he has not paid the balance amount, a civil suit was filed against him for its recovery. The claimant was charge-sheeted with seven charges of negligence, carelessness, dereliction of duties, etc., by issuing charge memo dated 20.08.1993. The enquiry was commenced on 21.12.1996 and concluded on 17.12.1997 and then enquiry report was issued to him, who has given his reply. After examining his reply, the order of dismissal was passed against him, which was challenged by him before the Labour Court, Hubballi. In the Labour Court, on preliminary issue, it was held that the enquiry conducted against claimant was fair and proper. Afterwards, after recording evidence on other Issues, the Labour Court

concluded that the dismissal of claimant was proportionate to the alleged misconduct against him.

4. Aggrieved by the same, the claimant has filed the aforesaid writ petition. The writ petition was allowed and *de-novo* enquiry was ordered, which is under challenge in these two writ appeals. The setting aside of dismissal order is challenged by the Corporation, whereas *de-novo* enquiry ordered by the learned single Judge is challenged by the claimant.

5. Heard Sri M.B.Kanavi, learned counsel for appellant and Sri Anant P. Savadi, learned counsel for respondent and perused the appeal papers and the writ petition records.

6. Learned counsel for appellant/Corporation Sri M.B.Kanavi, would submit that the claimant has admitted his guilt, deposited the portion of misappropriated amount; for balance amount, a civil suit was filed and allowed; against which RFA filed before this court was

dismissed; charges against claimant were specific, not vague and he was dismissed from service after conducting enquiry. He was not at all under suspension at any point of time. But the learned single Judge has misread it and allowed the writ petition on the ground that subsistence allowance was not paid to the claimant. The claimant has participated in the enquiry. He was examined. He cross-examined the Corporation witnesses and then the final order was passed. Under these circumstances, the enquiry held against him was proper and thus, because of misappropriation of huge funds, which is serious in nature, for the proved misconduct he was dismissed from service, which is proportionate to it. Hence, prayed for allowing the appeal.

7. Learned counsel for respondent/claimant Sri Anant P. Savadi, would submit that the *de-novo* enquiry ordered by learned single Judge is not proper. The charges against the claimant were vague. There was no proper enquiry against the claimant and hence, the entire enquiry

proceedings were vitiated. Labour Court has not considered these aspects. Hence, prayed for allowing his writ appeal and to set aside the dismissal order and also to set aside the *de-novo* enquiry.

8. Having heard the arguments of both sides and verifying the writ appeal papers, the points that would arise for consideration are as under:

i) Whether the order passed by learned single Judge for *de-novo* enquiry is justifiable?

ii) Whether setting aside of dismissal order of the claimant is proper?

9. Our finding on these two points is in 'negative' for the following:

REASONS

10. The admitted facts of the case are that the claimant was appointed as Store Keeper in the Corporation during 1971. In internal audit, it was found that he has

misappropriated fund amounting to ₹.2,27,565/- for the period from 01.11.1987 to 31.03.1992. Hence, articles of charge were issued to him on 20.08.1993. Even prior to it, on 16.07.1993 itself, he admitted the guilt and remitted an amount of Rs.50,000/- through DD to the Management Corporation. For the balance amount, O.S.No.137/1997 was filed by the Corporation before the Principal Senior Civil Judge, Hubballi, which was decreed, against which an appeal is preferred in RFA No.1328/2002, which was also dismissed by upholding the judgment and decree of the trial Court and it became final. Thus, misappropriation of funds by the claimant is proved by the Corporation.

11. There were seven charges levelled against the claimant and after conducting proper enquiry, the enquiry report was submitted that charges against the claimant were proved; afterwards, the second notice was also issued to him along with copy of enquiry report. The claimant has given reply to it. Considering the said reply, the Corporation has dismissed the claimant from service.

12. Aggrieved by said dismissal order, the claimant has preferred the claim petition before Labour Court, which is numbered as KID No.185/1999 before the Principal Labour Court, Hubballi. Considering all these facts, the Labour Court held that the enquiry held against claimant was fair and proper. Afterwards the proceedings were proceeded further in respect of issue Nos.2 to 5 in said KID petition and finally it was held that the dismissal order against the claimant is proportionate to the proved misconduct against him and thus dismissed the KID petition.

13. Aggrieved by the same, the claimant has preferred the writ petition.

14. The writ petition was allowed on three counts; one amongst them is subsistence allowance was not paid to the claimant; however, the claimant was directly dismissed from service after thorough enquiry and he was not suspended from service during pendency of the enquiry;

under such circumstance, granting subsistence allowance would not arise at all.

15. The second point was that charges levelled against claimant were vague. We have carefully verified the Articles of Charges levelled against claimant. They were clear and specific and they were admitted by the claimant. Moreover, claimant participated in the enquiry on understanding the charge against him and he has cross examined the witnesses. Unless one understands the charge against him, he would not be in a position to cross examine the witnesses.

16. The third point is that, the imputation of charges and list of witnesses and documents were not furnished to the claimant along with articles of charge, which was not at all the contention of the claimant at any point of time.

17. The claimant has participated in the enquiry held against him; cross-examined the witnesses of Corporation and he also led evidence during enquiry. Hence, the enquiry held against him was proper.

18. Under these circumstances, directing *de-novo* enquiry against claimant is not proper when he admitted his guilt and made part-payment of misappropriated funds; for the remaining amount the suit against him was decreed, which is confirmed in the RFA, which became final. Thus, we find that dismissal order of the claimant is proportionate to his proved misconduct. Hence interference on it is not required. However, the finding of learned single Judge on these points is erroneous which needs interference. Hence, we pass the following:

ORDER

i) The writ appeal filed by the Management Corporation, in W.A.No.100130/2017 is allowed.

ii) The writ appeal filed by the claimant in W.A.No.100176/2017 is dismissed.

iii) The dismissal order passed against claimant dated 28.07.1999 by the Corporation is confirmed by setting aside the order dated 07.10.2016, passed in

W.P.No.62470/2010 (L-TER) and confirming the award dated 12.03.2009, passed in KID No.185/1999, on the file of Principal Labour Court, Hubballi.

iv) In view of disposal of the appeals, pending interlocutory applications, if any, stand disposed of as they do not survive for consideration.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

MRK
CT: CMU.