



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 10TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

WRIT PETITION NO. 200902 OF 2023 (S-KAT)

BETWEEN:

SRI ABDUL SAMAD
S/O ABDULLAH SAB,
AGED ABOUT 65 YEARS,
OCC: RETIRED EXCISE SUB-INSPECTOR,
R/O: H.NO.5-4-146, MANIYAR TALEEM,
BIDAR – 585 401.

...PETITIONER

(BY SRI MAHESH PATIL, ADVOCATE)

Digitally signed by
VARSHA N RASALKAR
Location: HIGH
COURT OF
KARNATAKA

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS,
PRINCIPAL SECRETARY,
DEPARTMENT OF FINANCE (EXCISE),
VIDHANA SOUDHA,
BENGALURU – 560 001.
2. THE UPALOKAYUKTA,
REPRESENTED BY ITS REGISTRAR,
MS BUILDING, BENGALURU – 560 001.
3. THE DEPUTY COMMISSIONER OF EXCISE,
BIDAR – 585 401.



4. THE UNDER SECRETARY,
DEPARTMENT OF FINANCE (EXCISE),
VIDHANA SOUDHA,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, H.C.G.P. FOR R1,
R3 AND R4; SRI GOURISH S.KHASHAMPUR, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING IMPUGNED ORDER DATED 22.04.2022 PASSED BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL KALABURAGI BENCH IN APPLICATION NO. 20056/2021 AT ANNEXURE-D AND CONSEQUENTLY TO ALLOW THE APPLICATION FILED BY THE PETITIONER BEFORE THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

This writ petition is filed challenging the order dated 22.04.2022 passed by the Karnataka State Administrative Tribunal (for short 'the Tribunal') at Kalaburagi Bench in Application No.20056/2021, wherein, the application filed



by the applicant/petitioner has been dismissed and penalty imposed by respondent No.4 vide order dated 07.09.2020 has been confirmed.

2. Brief facts of the case are that on 04.10.2010, the officials of Lokayukta raided the Bolero vehicle belonging to the Excise Department and found Rs.700/- cash with one Subhash, Excise Sub-Inspector, Rs.3,950/- with Ramesh Giri, Driver of the said vehicle, Rs.22,500/- with the applicant and Rs.20,850/- with one Sharanappa, Excise Guard. When questioned, they were not in a position to give explanation regarding the source of the said amount. Hence, departmental enquiry was initiated and charges were framed on 15.09.2015. After the enquiry, enquiry report dated 29.06.2017 came to be submitted to the Disciplinary Authority. Based on the enquiry report, the respondent No.4 vide order dated 07.09.2020 has imposed penalty on the delinquent employees, wherein, in respect of the applicant/petitioner, since he is already retired, penalty of withholding 50% of



pension permanently was imposed. Being aggrieved by the same, he has filed an application before the Tribunal in Application No.20056/2021. The Tribunal by order dated 22.04.2022 has dismissed the said application and confirmed the penalty imposed. Being aggrieved by the order of the Tribunal, the applicant/petitioner is before this Court.

3. Learned counsel appearing for the petitioner has contended that the departmental enquiry has been initiated against three persons i.e., applicant/petitioner, Ramesh Giri, and one Sharanappa. The driver-Ramesh Giri passed away during the enquiry proceedings. Common charges have been issued and common enquiry has been initiated against all delinquent employees. In respect of petitioner, penalty has been imposed by withholding 50% of pension permanently and in respect of Sharanappa, penalty of compulsory retirement has been imposed. Being aggrieved by the penalty order, Sharanappa has filed an application before the Tribunal in application



No.20156/2020 and the said application came to be allowed on the ground that relevant witnesses have not been examined and enquiry is contrary to the provisions of Rule 11 of the Karnataka Civil Services (CCA) Rules, 1957. Therefore, the learned counsel contended that since common charges have been framed and common enquiry had been initiated against all the delinquent employees, petitioner's application is also liable to be allowed on the grounds of parity. But the Tribunal has dismissed the application of the petitioner. Hence, he sought for allowing the petition.

4. Per contra, learned Addl. Government Advocate appearing for the respondents contented that after thorough enquiry, the Enquiry Officer has submitted a report proving the charges against the delinquent employees. Based on the enquiry report, the respondent No.4, by order dated 07.09.2020, has imposed penalty against the delinquent employees. After considering the materials available on the record, the Tribunal has rightly



dismissed the application filed by the petitioner and confirmed the order dated 07.09.2020 passed by the respondent No.4 imposing the penalty of withholding 50% of pension permanently. Hence, he sought for dismissal of the petition.

5. Heard the learned counsel for the parties and perused the writ papers.

6. On the basis of complaint, the officials of the Lokayukta raided the bolero vehicle that belonged to the Excise Department; they found Rs.700/- cash from Subhash, Excise Sub-inspector, Rs.3,950/- from Ramesh Giri, Driver of the said vehicle and Rs.22,500/- from applicant/petitioner and Rs.20,850/- from Sharanappa. The Departmental Enquiry has been initiated against the petitioner/applicant, Ramesh Giri and Sharanappa. Common charges have been framed against all three delinquent employees. During the pendency of the enquiry, Ramesh Giri died. The Enquiry Officer after



conducting a detailed enquiry, submitted a report on 29.06.2017. Based on the report filed by the Enquiry Officer, the respondent No.4 has imposed penalty of withholding 50% of the pension permanently in respect of the petitioner and imposed penalty of compulsory retirement in respect of Sharanappa. Being aggrieved by the penalty imposed by respondent No.4, Sharanappa filed an application before the Tribunal in Application No.20156/2020. The Tribunal by order dated 02.08.2022 allowed the application on the ground that the witness, owner of the Ambika Bar and Restaurant has not been examined and enquiry was conducted contrary to the Rule 11(18) of the KCS (CCA) Rules, 1957. Paragraphs 9, 10 and 11 of the order dated 02.08.2022 i.e., the finding of the Tribunal in respect of the application filed by Sharanappa in Application No.20156/2020 are relevant and same is extracted hereunder for easy reference:

"9. In the enquiry proceedings, it is true that the owner of Ambika Bar and Restaurant has not



at all been examined as a witness in the case. Therefore, it can be safely held that the charge of bribe taking from Ambika Bar and Restaurant is not at all proved in the enquiry by any evidence. That leaves us with the question of explanation for the amount seized from the applicant. The applicant in his defence has denied the possession of the amount alleged in the charge and they have not examined themselves either in the enquiry proceedings and he was subjected to questionnaire under Rule 11(18) of the KCS(CCA) Rules, 1957. As regards the seizure of the amount from the applicant as in Ex.P2, the appreciation of the totality of the evidence of independent panch witnesses PW2 and PW3 testifies the seizure of the amount mentioned in Ex.P2, seizure mahazar submitted in the evidence of the complainant. Therefore, the contention of the applicant that no money was seized from him is not tenable on the evidence appreciated in the enquiry and there is no infirmity in the finding of the enquiry officer in this regard.

10. We have perused the voluntary statement of the applicant recorded at the time of the



seizure of money from him. In the statement, it is stated by him that he has gone alongwith the Excise Inspector Subash who inspected shops enroute and that he is not aware of when and where he took money. There is no explanation forthcoming from him as regards the seizure made from his person.

11. We had requested the Government to make available the records of the enquiry, but in the records made available to us the records of the enquiry before the enquiry officer is not part of the records made available to us. In this regard, we refer to the inquiry report for any observations of the enquiry officer with regard to the 'circumstances appearing against him in the evidence for the purpose of enabling the government servant to explain any circumstances appearing in the evidence against him'. We find that the enquiry officer has not at all referred to the circumstances appearing against the applicant in the evidence adduced on behalf of the disciplinary authority' and that the same has not been satisfactorily explained in their reply or that there Was no reply from the applicant-DGO. Therefore, we are confronted



with a situation when the disciplinary authority who has alleged that the amount found with the applicant and other delinquents are collected as bribes, which is also the contention of the respondent Lokayukta institution in the reply statement, all of a sudden in the hearing, the argument advanced by the learned Lokayukta counsel and the government pleader is that the applicant has not explained as to how he is having so much money and has not accounted for the same. It is pertinent to note that the charge on the applicant is that the amount with the applicant and other delinquents are collected as bribes from the shops. Apart from stating that the evidence of 'PW1 & PW4 is sufficient to accept the case of the disciplinary authority', there is no finding as to how their evidence establishes the charge that the money in the possession of the applicant and other delinquents is bribe money collected from the shops when none of the shop owners or alleged bribe givers have been examined in the enquiry. The enquiry states that though the evidence of PW2 and PW3, independent panch witnesses are hostile in nature, it is sufficient to prove that the money



was seized from the applicant. That mere seizure does not prove the charge which is based on a charge of bribe taking and which is not at all established by any evidence whatsoever, makes the mere evidence of seizure of amount from the applicant not of much consequence to prove the charge. It is pertinent to note that there is no statement of the applicant at the time of the seizure of the amount regarding any amount seized from him. It is also not the case of the respondent State and the Lokayukta institution that the seizure of the amount from the applicant is part of the incriminating circumstance mentioned by the enquiry officer on the basis of any evidence of the disciplinary authority mentioned in the questionnaire of the enquiry officer to the applicant.”

7. Since common charges were framed against Sharanappa and the applicant/petitioner, a joint enquiry was conducted. The report of the enquiry dated 26.09.2017 submitted at Annexure-A2 establishes that the charges against both i.e., Sharanappa and petitioner, have been proved and penalty has been imposed. However,



challenging the penalty order, the application filed by the Sharanappa before the Tribunal is allowed and the order of the penalty imposed against Sharanappa is quashed on the ground that the enquiry is conducted contrary to KCS (CCA) Rules; and the application filed by the petitioner is dismissed. Therefore, the petitioner is also entitled for similar relief granted to Sharanappa.

8. The Division Bench of this Court in WP No.207183/2017 connected with WP No.207184/2017 disposed of on 01.08.2019 in paragraph No.6 stated that there must be parity among delinquents, who had approached the Tribunal arising out of the same cause of action.

9. In the instant case, this Court on 28.03.2023 has granted stay of the impugned order dated 07.09.2020. The order dated 28.03.2023 reads as under:

"2. Learned counsel for the petitioner submits that a joint enquiry was held



against one Sharanappa and the petitioner herein and insofar as Sharanappa is concerned a different punishment of compulsory retirement was ordered, which however has been set aside as per the order in Application No.20156/2020. It is submitted that the petitioner herein is placed in parity as Sharanappa. It is further submitted that the charges insofar as Sharanappa and the applicant were common and when the finding in the report was made as against Sharanappa as well as petitioner herein, the eventual penalty must also be same on the principle of parity.

Taking note of the order passed in Application No.20156/2020, there would be stay of the impugned order dated 07.09.2020 at Annexure-A5, in the present matter also."

10. In view of the above, we are of the opinion that the writ petition deserves to be allowed. Accordingly, the following order is passed:



ORDER

- (i) The Writ Petition is ***allowed***.
- (ii) The order dated 22.04.2022 passed by the Tribunal in Application No.20056/2021, is set aside.
- (iii) Consequently, the order dated 07.09.2020 passed by respondent No.4 imposing penalty of withholding 50% of pension permanently from the petitioner, is hereby quashed.

**Sd/-
(H.T.NARENDRA PRASAD)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**

AMM
List No.: 1 Sl No.: 66