



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 15TH DAY OF OCTOBER, 2025

PRESENT

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

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

WRIT PETITION NO.202295 OF 2025 (S-KSAT)

BETWEEN:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FINANCE (TREASURY),
M.S BUILDING, BENGALURU-560 001.
2. THE DIRECTOR/COMMISSIONER,
DEPARTMENT OF TREASURY, KPTCL BUILDING,
VI FLOOR, PALACE ROAD, BENGALURU-560 001.

...PETITIONERS

(BY SRI. VIRANAGOUDA M. BIRADAR, AGA)

AND:

1. SHRI. AADINARAYAN S/O G. VEERALAH,
AGE: 71 YEARS, OCC: SECOND DIVISION
ASSISTANT (RETD), O/O DISTRICT TREASURY,
KALABURAGI, R/O NEAR N.V GIRLS HIGH SCHOOL,
BRAHAMPUR, KALABURAGI-585 102.

...RESPONDENT

(BY SRI. R.J. BHUSARE, ADVOCATE)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO (i) ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OF THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION TO QUASH THE ORDER PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT KALABURAGI IN APPLICATION NO.20575/2024 DATED 02.09.2024 ANNEXURE – B TO THE PETITION AND DISMISSED THE APPLICATION NO.20575/2024; (ii) PASS ANY OTHER APPROPRIATE ORDER IN LIGHT OF FACTS AND CIRCUMSTANCES OF THE CASE.

THIS PETITION COMING ON FOR ORDERS, 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 by the State challenging the order passed by Karnataka State Administrative Tribunal, Kalaburagi (for short, 'the Tribunal') in Application No.20575/2024 whereby the application filed by the respondent came to be allowed.

2. The brief facts of the case are that; the respondent was working as Second Division Assistant.



While working as Second Division Assistant in the office of Gazetted Sub-Treasury Officer, Yadgiri in Kalaburagi District, during 1996-97, in relation to release of grant-in-aid, department enquiry has been initiated against the respondent and one Mohammed Ismail, who was working as Gazetted Sub-Treasury Officer. Common enquiry against both the officials has been initiated and common charges have been framed against them. After conducting enquiry, the Enquiry Officer submitted his report dated 05.03.2001 holding that charges against the Mohammed Ismail was proved. The disciplinary authority passed an order dated 11.08.2004 in respect of Mohammed Ismail by imposing penalty and order dated 27.07.2005 was passed in respect of the respondent herein imposing penalty of withholding three annual increment with cumulative effect and promotion for three years and also ordered for recovery of sum of Rs.3,03,750/- from the salary of the respondent.



3. Being aggrieved by the penalty imposed by the disciplinary authority, both employees have filed separate appeal before the appellate authority. The appeal preferred by Mohammed Ismail has been allowed by the appellate authority, whereas the appeal filed by the respondent herein before the appellate authority came to be rejected.

4. Being aggrieved by the same, the respondent herein has filed an application before the Tribunal in Application No.6847/2010. The Tribunal *vide* order dated 13.02.2019 has set aside the order and remitted the matter to the appellate authority to reconsider the case of the respondent and pass appropriate orders. The appellate authority once again by its order dated 29.04.2020 dismissed the appeal, confirming the penalty imposed on the respondent.

5. Being aggrieved by the same, the respondent has filed an application before the Tribunal in Application



No.20575/2024. The Tribunal by its order dated 02.09.2024 allowed the said application . Being aggrieved by the same, the State is before this Court.

6. Learned Additional Government Advocate appearing for the petitioners contended that challenging the order dated 29.04.2020 passed by the appellate authority, an application is filed by the respondent before the Tribunal in the year 2024. As such, there is a delay of almost four years in filing the application before the Tribunal. Without giving any reason for condoning the delay, the Tribunal entertained the application and the impugned order has been passed. Secondly, he contended that even though common charges have been issued against both DGOs, since taking note that Mohammed Ismail was a retired employee, the appellate authority after considering the material available on record, has allowed the appeal preferred. In respect of respondent is concerned, the appellate authority has confirmed the charges and this aspect of the matter has not been



considered by the Tribunal. Therefore, he sought for allowing the writ petition.

7. Learned counsel appearing for the caveator/respondent submits that the allegations against both the DGOs are same and even common charge memo has been issued. The appeal filed by the Mohammed Ismail has been allowed. Only because the petitioner is in the service, his appeal has been dismissed. This action of the appellate authority is arbitrary. He further contended that when common enquiry has been conducted, the appellate authority has entertained that appeal preferred by Mohammed Ismail and in the case of other, it is dismissed, which amounts to discrimination of violation of Article 14 of the Constitution of India.

8. In support of his contentions, the learned counsel has relied on the judgment of Hon'ble Apex Court in the case of ***Sengara Singh and others Vs. State of Punjab and others*** reported in ***(1983) 4 SCC 225***.



9. Heard the learned counsel appearing for the parties and perused the writ petition papers.

10. It is not in dispute that respondent herein and one Mohammed Ismail were working in the department of Treasury. When the respondent and Mohammed Ismail were working in the department of Treasury, departmental enquiry has been initiated against both the employees in respect of sanctioning the grant-in-aid bill dated 24.03.1997 for a sum of Rs.99,900/- and Rs.5,07,600/-, dated 31.03.1997, totally amounting to Rs.6,07,500/- contrary to the law. Therefore, common enquiry has been conducted and the common charge memo has been issued to both the employees. The enquiry officer has submitted the report dated 05.03.2001 stating that allegations against both the employees have been proved. The disciplinary authority has passed an order imposing penalty on both the employees by imposing the penalty of withholding three annul increments with cumulative effect and the promotion for three years and also ordered to



recover for a sum of Rs.3,03,750/- each from of the DGOs.

11. Being aggrieved by the order passed by the disciplinary authority imposing the penalty, respondent and Mohammed Ismail both have filed different appeals before the competent authority. The appeal filed by Mohammed Ismail has been allowed, whereas the appeal filed by the respondent herein has been dismissed. Even though joint enquiry has been conducted and common charges has been issued to both DGOs and penalty has been imposed upon both DGOs, only because the employee Mohammed Ismail has retired from the service, his application has been allowed and since the respondent is in the service, the appellate authority has rejected his appeal. This action of the appellate authority amounts to discrimination. The Tribunal after considering the reason assigned by the appellate authority has rightly held that the order passed by the appellate authority is in arbitrary and in violation of Article 14 of the Constitution of India.



12. The relevant paragraph is extracted as below:

"8. The applicant and another Mohammed Ismail were called up for disciplinary proceedings by issuing the common articles of charges and the allegations are also common and the enquiry officer has conducted the enquiry and proved the allegations in respect of both the applicant and one Mohammed Ismail. The said order was challenged before this Tribunal and this Tribunal at para No.5 has considered the submitted of the applicant and ultimately held at Para Nos.5, 6 and 7 which reads as follows:

"5. The learned counsel for the applicant has submitted that the enquiry officer should have conducted the enquiry and submitted a report and while submitting the report, the enquiry officer is expected to follow the mandate of sub-rule (23) of Rule 11 of KCS (CCA) Rules, 1957. Sub-rule (23) of Rule 11 is relevant and is extracted below:

"(23) (i) After the conclusion of the enquiry, a report shall

be prepared and it shall contain.-

(a) the articles of charge and the statement of the Imputations of misconduct or misbehaviour;

(b) the defence of the Government servant in respect of each articles of charge;



(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and the reasons therefor.

6. Annexure-A6 is the report submitted by the enquiry. After concluding the enquiry, the defence taken by the Government servant in respect of each articles of charge must be dealt with while assessing the evidence in respect of each charge. No separate finding is given on each of the articles of charge and the reasons thereon. Ongoing through the same, it is evident that the enquiry report is not in accordance with sub-rule (23) of Rule 11 of K.C.S. (CCA) Rules, 1957.

7. Even otherwise, the appeal filed under Rule 18 of the K.C.S. (CCA) Rules, 1957 will have to be disposed of in accordance with the mandate of Rule 25 of CCA Rules. While upholding the finding of the disciplinary authority, the disciplinary authority is expected to give valid and cogent reasons. Separate finding must be given about the quantum of penalty imposed on the DGO stating as to whether the said Quantum of penalty is proportionate or shocking. No such approach is adopted by the appellate authority while disposing of the appeal. In the light of these legal infirmities, the matter needs



to be sent back to the appellate authority to pass an appropriate order keeping in mind the observations made by this Tribunal."

Ultimately, allowed the application and remitted back to the appellate authority and after remand the appellate authority has issued the order as could be seen from the order passed by the appellate authority dated 29.04.2020, the appellate authority has not considered the direction issued specifically mentioning with regard to the report of the enquiry officer. On the other hand, the appellate authority has extracted the table and rejected the appeal whereas in respect of another person also submitted an appeal in that the appellate authority has passed the order as per Annexure-A5 in which the appellate authority on considering his case allowed the appeal the same is reads as follows:

"I have considered the appeal petition under Rule 18 of KCS(CCA) Rules, 1957, submitted by Sri Md. Ismail, retired Head Accountant, Treasury Department, against the Orders of Government as Disciplinary Authority Imposing the penalty of recovery of 50% of the total loss caused (Rs.6,07,500/-) i.e., Rs.3,03,750/- with 8% Interest from his pensionary benefits under Rule 214 and 215-A of K.C.S.Rs.vide Government Order No. FD 189 Aa Kha E 2001, dated: 11-8-04. I have considered the appeal in the light of the contentions made in the appeal petition and the connected



inequiry records and the appeal records.

Ongoing through the records, I find that the appellant obviously seems to have acted in haste in passing the fake bills as it was the last day of the financial year. He has passed the fake bill for grant-in-aid under the Head of Account 2235-02-104-2-01 submitted by Arunodaya Disabled and Aged Service Society, Gulbarga on 24-3-1997 and 31-3-1997 for Rs.99,900/- and Rs.5,07,600/- respectively without properly processing the same. The Director of Treasury sought approval of Government for exempting Treasury staff from the recovery of loss caused to Government and had made a proposal to Government for taking a decision to prosecute the Institute which submitted the fake bill which had been passed by the Treasury staff in the year end rush of work. No doubt, there has been lapse on their part in not properly scrutinizing the Bills. There does not seem to be any deliberate attempt on their part to collude with the Institute which submitted the fake Bill. It also appears no action has been taken in respect of the Institute which made the fake claim. The real culprits who defrauded Government need to be booked.

However, on account of lapse on the part of the appellant in not properly



examining the claims, there has been loss to Government, in View of admitting a fake grant-in-aid bill and passing it without proper scrutiny.

Hence, I allow the appeal petition and the penalty imposed is modified to the extent, of recovery of five percent of the loss caused to Government without interest, from the pensionary benefits of the appellant and the Government is directed to probe into the issue of prosecuting the real culprits who so far appear to have gone scot free for their criminal acts."

*Thereby considering the fact that it is the end of financial year there was a rush therefore, they could not able to find out the fake bills by that Society. On considering the same has exonerated the applicant therefore, find that it is difficult to find fault with the bills submitted by those persons, the consideration and the findings is also applicable to the case of the applicant as who only assisted the said person though the same is not the actual duties of the applicant. That being the position, the order issued by the appellate authority without considering the same and differently considering the case of the applicant, the said action is not permissible in view of the law laid down by the Hon'ble Apex Court in the case of Sengara Singh V/s. The State of Punjab and Others reported in 1983 (4) SCC 225 in which the Hon'ble Apex Court on considering with regard to initiation of disciplinary proceedings and on consideration of all the person who are involve like similarly and interfered with the order. The Hon'ble High Court of Karnataka in the case of **Abdul Raheem and Another V/s. State and others** in W.P.*



No.200198/2022 (S-KAT) challenging the order passed by this Tribunal in respect of an issue disposing of the said challenge differently by this Tribunal holding that some of the cases are allowed and the other cases are disposed of therefore, the Hon'ble High Court of Karnataka on considering with reference to these cases and decision rendered by this Tribunal has allowed the application and granted the relief. Another aspect which is required to be consider that the applicant is aged about 70 years and this is the second round of litigation before this Tribunal earlier he challenged the order of the appellate authority and also consequential order that is set aside and remitted back to the appellate authority to exercise the power under Rule 25 of KCS (CCA) Rules which is appellate power. In the case of another person without approaching the court the appellate authority itself has considered and extend the benefits since the applicant is also similarly placed, he is also entitled for same consideration and required to be considered with reference to the same on consideration of this Tribunal while deciding the matter which was not considered by the appellate authority even the single line about that since the findings recorded by the enquiry officer itself is not in conformity with the rules as considered by Tribunal, the appellate authority has failed to consider by exercising the appellate power. As per law, the appellate authority is required to consider the case alike and not differently. On considering another person by exonerating and in the case of the applicant considered entirely opposite is illegal and contrary to law referred to above, the Hon'ble Apex Court in the case of A.L. Kalana V/s. Project and Equipment Corporation of India Limited reported in 1984 (3) SCC 316

and other cases it is clear from the said decision that the action of the respondent No.1 is arbitrary and



contrary to law. Therefore, the order call for interference as the applicant is also entitle for same relief as that of another delinquent. Hence, following:"

13. Having carefully gone through the reasoning of the Tribunal and the contentions raised by both the parties, there is no illegality or error found in the order passed by the Tribunal. In that view of the matter, the petitioners/State has failed to make out any grounds warranting interference at the hands of this Court. Hence, the writ petition deserves to be dismissed. Accordingly, the writ petition is dismissed.

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

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

BL
List No.: 1 Sl No.: 27
CT: SB