



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 35179 OF 2024 (S-KSAT)

BETWEEN:

SRI. RAJAKUMAR S
S/O LATE SANNABORAI AH
AGED ABOUT 54 YEARS
GRADE-II SECRETARY
(UNDER COMPULSORY RETIREMENT)
SAMPAHALLI, GORAVALE POST
MANDYA TALUK
MANDYA DISTRICT-571 401

...PETITIONER

(BY SRI. NAGARAJAPPA A, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
RURAL DEVELOPMENT AND
PANCHAYATH RAJ
KARNATAKA GOVERNMENT SECRETARIAT
MULTISTOREYED BUILDING
DR. AMBEDKAR VEEDHI
BANGALORE-560 001
2. THE CHIEF EXECUTIVE OFFICER
ZILLA PANCHAYATH
NEAR DISTRICT AND SESSIONS
JUDGE COURT, MYSORE-570 005



3. THE DEPUTY SECRETARY
(DEVELOPMENT) AND DISCIPLINARY
AUTHORITY FOR GRAM PANCHAYATH
SECRETARIES, SPECIAL LAND ACQUISITION
OFFICER, ZILLA PANCHAYATH
MYSORE, NEAR DISTRICT AND
SESSION JUDGE COURT
MYSORE-570 005

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE AN ORDER OR DIRECTION OR WRIT IN THE NATURE OF WRIT OF CERTIORARI QUASHING THE ORDER OF KARNATAKA ADMINISTRATIVE TRIBUNAL IN APPLICATION No.2295/2020 DATED 06.12.2022 MARKED AT ANNEXURE-G, IN THE INTEREST OF JUSTICE AND EQUITY AND ISSUE AN ORDER OR DIRECTION OR WRIT IN THE NATURE OF WRIT OF CERTIORARI QUASHING THE ORDER OF COMPULSORY RETIREMENT IN No. CCA/36-2014-15/14091 DATED 30.10.2018 (ANNEXURE-A12 OF ANNEXURE-A) AND ORDER No. CCA/36-2014-15 (BHAGA) MEELMANAVI/14091 DATED 12.07.2019 (ANNEXURE-A15 OF ANNEXURE-A) PASSED BY THE RESPONDENT No. 3 AND 2 RESPECTIVELY AND CONSEQUENTLY DIRECT THE 2ND RESPONDENT TO REINSTATE THE PETITIONER AS GRADE-II SECRETARY, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
and
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR



ORAL ORDER

(PER: HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR)

The petitioner Sri Rajakumar S., S/o. of Late Sannaboraiah has filed this writ petition under Articles 226 and 227 of the Constitution of India assailing the legality and correctness of the order dated 6.12.2022 (Annexure-G) passed by the Karnataka State Administrative Tribunal (hereinafter referred to as `KSAT') in his application No.2295/2020 challenging the disciplinary proceedings initiated against him, which culminated in an order of his compulsory retirement dated 30.10.2018 passed by the disciplinary authority and a subsequent appellate order dated 12.07.2019 whereby, the punishment was confirmed with a partial modification regarding the recovery of the amount.

2. By filing this petition, petitioner seeks a writ of certiorari to quash both the impugned orders and also seeks a direction of his reinstatement into the service with all consequential service and monetary benefits.



FACTS OF THE CASE:

3. The petitioner entered Government service on compassionate grounds and was appointed as a Grade-II Secretary in the office of Zilla Panchayath, Mysore on 23.12.2000. He served the said Department in various capacities including incharge Panchayath Development Officer (PDO) at Kaliyur Grama Panchayath during the period commencing from 02.07.2012 to 31.12.2013. It is his specific assertion that, during his tenure as in-charge PDO, the local Audit Circle, Mysore conducted an audit for the financial year 2012-12 and 2013-14. Based upon the said audit, certain objections were raised indicating the alleged financial irregularities and administrative lapses during that period. He specifically alleges that:

- The audit was conducted unilaterally in gross violation of mandatory provisions Section 246(6) and (7) of the Karnataka Grama Swaraj and Panchayath Raj Act, 1993.



- No notice or opportunity was provided to the petitioner to submit his response/remarks to the audit objections or to take remedial action prior to the initiation of disciplinary proceedings.
- The entire disciplinary action was based solely on the audit report without any independent corroboration.

4. According to him, pursuant to the said audit report, a charge memo dated 11.03.2016 was issued against him setting out in all eight (8) charges relating to procedural and financial irregularities. The petitioner submitted detailed reply/remarks dated 19/21.3.2016. An enquiry was conducted by the retired District Judge acting as an Enquiry Officer. During the proceedings, the statements of five audit officials were recorded. He specifically alleges that, his request to produce documentary evidence including vouchers and cash books was not adequately considered by the enquiry officer. No findings were recorded by the Enquiry Officer on his



documentary evidence so produced by way of rebuttal evidence.

5. It is alleged that, based on the said enquiry officer's report dated 29.8.2017, in which, it was held, that charge no.1 is partly proved and charge nos. 3 to 6 and 8 are proved. The disciplinary authority passed an order dated 30.10.2018 imposing penalty of his compulsory retirement and also passed an order for recovery of Rs.10,37,359/-. The Appellate Authority, vide orders dated 12.07.2019 confirmed the penalty of compulsory retirement, but, reduced the recovery to Rs.4,73,518/-.

6. He states that, his application before the KSAT was dismissed though, he alleged about the vitiating of the procedural irregularities, so also *exparte* audit and disproportionate punishment. The said order of the KSAT is illegal.

7. Per contra, it is the contention of the respondents that, because of the proof of charges leveled



against him, as there is a misappropriation of funds of the State, the enquiry officer has rightly given the findings on charges which are proved based upon the evidence of witnesses. The Disciplinary Authority and Appellate authority have rightly concluded and passed the order of compulsory retirement and for recovery of the amount.

The arguments of the counsel for the petitioner:

- The audit process failed to comply with the provisions of the Act which clearly mandates that objections shall be communicated to the officers concerned who shall be given an opportunity to furnish an explanation or comply with the objections.
- The audit was conducted unilaterally without involving the petitioner or giving him a chance to rectify or clarify the purported irregularities. The Enquiry Officer almost exclusively relied on the audit report and testimonies of audit officials. The Enquiry Officer failed to consider the petitioner's documentary evidence, such as cash books, expenditure vouchers and other primary



records, thereby, the enquiry officer has denied the meaningful opportunity to the petitioner to defend. This approach has violated the principles of natural justice, particularly the right to a fair hearing and adjudication based on the totality of evidence.

8. The learned counsel for the petitioner Sri Nagarajappa, in support of his submission, places reliance on the following judicial precedents:

- (i) Palakshaiah vs. Secretary, Dept. of Education and Ors,- 1993 K.S.L.J. 388.*
- (ii) Shivananda vs. State,- 1993 K.S.L.J. 977*
- (iii) Surath Chandra Chakrabarty v. State of W.B., (1970) 3 SCC 548*

9. Placing reliance upon these judgments, it is submitted that, audit objections cannot be treated as conclusive proof of guilt unless verified and substantiated through proper procedure. It is further submitted that, vague charges without clarity on allegations deprive the accused of fair opportunity and vitiate the entire enquiry



as per the decision of the Apex Court *supra*. He further submits that, even if there were minor procedural lapses, there was no element of misappropriation or fraud. As such, it is submitted, the imposition of compulsory retirement which is a major penalty is grossly disproportionate.

10. It is further submitted that, Lokayukta of Karnataka in its recommendation dated 25.2.2022, concluded that, charges were not substantiated and the disciplinary proceedings were not justified. Therefore, the punishment deserves to be revoked. By contending all these aspects, it is prayed by the learned counsel for the petitioner to allow the writ petition as prayed for.

Arguments of the counsel for the respondents;

11. Learned Sri Vikas Rojipura, AGA appearing for respondent no.1 justified the disciplinary action by submitting as under:



- (a) The enquiry was conducted by a legally trained and independent authority (retd.District Judge) who ensured compliance with the principles of natural justice.
- (b) The petitioner was served with charge memo, was provided with adequate time to reply, he was permitted to cross-examine the witnesses and full opportunity was provided to present his evidence.
- (c) The Enquiry Officer's conclusions were based on both oral depositions and documentary records and the petitioner has failed to discharge his burden of rebuttal despite ample opportunity.

12. In support of his submissions, the learned counsel for the respondents places reliance on the decision of the Apex Court in ***B.C. Chaturvedi v. Union of India***, reported in **(1995) 6 SCC 749** and assert that, the High Court in its writ jurisdiction cannot function as an appellate authority and re-appreciate evidence unless the findings are shown to be perverse, *mala fide* or unsupported by any evidence. He would further submit that, the



Lokayukta's opinion is advisory in nature and not binding on the disciplinary authority. The decision to compulsorily retire was taken independently based on the materials available on record. The learned AGA prays to dismiss the petition.

13. In view of these rival submissions of both the sides, the points that are to be considered in this petition are as under:

- (i) Whether the disciplinary proceedings' including the enquiry and audit suffers from procedural infirmities amounting to violation of natural justice?
- (ii) Whether the findings of the enquiry officer are perverse or unsupported by evidence?
- (iii) Whether the penalty of compulsory retirement imposed on the petitioner is, disproportionate to the charges established?
- (iv) Whether the KSATs order is legally sustainable in view of the above findings?



Point Nos. (i) to (iv) are discussed together:

14. Section 246 of the Act mandates a structured audit mechanism, including the communication of audit objections and the officer's right to respond. While the petitioner asserts non-compliance of the same, the record reveals that, the audit findings were part of the enquiry and subjected to scrutiny through witness depositions. The petitioner had full notice of the charges leveled against him and has actively participated in the enquiry. The mere absence of formal opportunity to respond to audit objections before issuance of the charge memo does not render the entire proceedings void as per the evidence placed on record by the respondents.

15. It is evident that, the petitioner was accorded full opportunity to submit documents and cross-examine the witnesses. There is no material to show that, the enquiry officers summarily rejected the petitioner's evidence or denied any procedural rights. His claim that,



his documents were not considered appears to be unsubstantiated particularly, because, he had given ample opportunity to bring such alleged procedural lapses to the notice of enquiry officer or the appellate Authority.

16. In ***Union of India v. P. Gunasekaran***, reported in **(2015) 2 SCC 610**, the Hon'ble Supreme Court held that, the judicial review in disciplinary proceedings is confined to examining:

- (i) Whether there is violation of natural justice?
- (ii) Whether findings are based on no-evidence?
- (iii) Whether findings are perverse?
- (iv) Whether the punishment is disproportionate?

17. Applying these principles, on perusal of the entire records, as well as findings of the enquiry officer, disciplinary authority and appellate authority and KSAT, we find, no material irregularity or perversity in the enquiry proceedings. The conclusion of the enquiry officer



is based on some evidence and cannot be termed unreasonable or illegal. There is misappropriation of funds of the Government which is duly proved as could be seen from the findings of the authorities concerned particularly audit report. Therefore, we do not find any factual or legal error with regard to finding guilty of the petitioner of the said charges.

18. So far as penalty is concerned, the authority has imposed punishment of compulsory retirement. It is a severe measure. Such a punishment is imposed if such charges are proved. Such a punishment cannot be interfered with unless it 'shocks the conscience' of the Court or is wholly disproportionate to the misconduct proved. The charges involve the financial mismanagement and improper record keeping which strike at the core of the administrative accountability, therefore, penalty imposed cannot be considered as excessive. The Lokayukta recommendation is not binding on disciplinary authority. The decision taken by the respondents was based on the



independent evaluation of the enquiry report and cannot be overridden solely on the basis of a contrary opinion expressed by another authority. Therefore, we find that, there are no compelling reasons to interfere with the well-reasoned and legally sound order passed by the 'KSAT'. It has rightly upheld the principles of administrative law and judicial review. The present contentions of the petitioner regarding procedural irregularity, evidentiary perversity and disproportionality in punishment are devoid of merit and are liable to be rejected. Consequentially, writ petition is liable to be dismissed. Resultantly, we pass the following:

ORDER

(i) Writ Petition is ***dismissed***.

(ii) Costs made easy.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE**