



CNR: KAHC010307452022

NC: 2026:KHC:40658-DB
WP No. 13640 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO. 13640 OF 2022 (S-KSAT)

BETWEEN:

SRI. B PRAKASH
AGED ABOUT 50 YEARS,
S/O LATE BORAIHAH
NO.168, 6TH CROSS,
KEMPEGOWDANAGAR,
NEAR ST. YASH SCHOOL,
BYADARAHALI, MAGADI MAIN ROAD,
VISHWANEEDAM POST,
BANGALORE-560 091.

...PETITIONER

(BY SRI. S RAJESH., ADVOCATE FOR
SRI. MUKKANNAPPA S B.,ADVOCATE)

AND:

1. THE SECRETARY,
DEPARTMENT OF AGRICULTURE,
GOVERNMENT OF KARNATAKA
M S BUILDING,
DR B RAMBEDKAR VEEDHI
BANGALORE-560 001.
2. THE JOINT DIRECTOR
DEPARTMENT OF AGRICULTURE
ADMINISTRATION,

Digitally signed
by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



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SESHADRI ROAD,
BANGALORE-560 001.

3. THE DIRECTOR OF AGRICULTURE AND
DISCIPLINARY AUTHORITY
SESHADRI ROAD
BANGALORE-560 001.
4. THE ASST DIRECTOR
OFFICE OF THE DIRECTOR OF ASST.
AGRICULTURE,
ANEKAL,
BANGALORE URBAN DISTRICT,
BANGALORE-562 106.

...RESPONDENTS

(BY SRI.A S HARISHA.,AGA FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED 30.03.2022 PASSED BY THE KSAT AT BANGALORE IN APPLICATION No-6728/2019 AT ANNEXURE-D AND CONSEQUENTLY ALLOW THE APPLICATION No-6728/2019 IN THE INTERESTS OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO



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ORAL ORDER

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

The petitioner has called in question the order dated 30.03.2022 passed by the Karnataka State Administrative Tribunal, Bengaluru (hereinafter referred to as "the Tribunal") in Application No. 6728/2019, whereby the Tribunal dismissed the application and upheld the order of dismissal from service dated 27.02.2013 passed by the third respondent and the appellate order dated 30.08.2019 passed by the first respondent.

2. The brief facts necessary for disposal of this petition are as under:

The petitioner was appointed as Second Division Assistant on 05.07.1991. While working in the office of the fourth respondent, he remained absent from duty with effect from 15.10.2005. The respondents contend that no leave application was received and that show-cause



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notices issued by the Assistant Director of Agriculture, Anekal, elicited no response. By order dated 21.03.2006, the petitioner was placed under suspension pending departmental enquiry. Attempts to serve the suspension order by registered post failed. Paper publications were effected in the Kannada daily newspapers Samyukta Karnataka and Praja Vani. Articles of charge were framed on 18.11.2006. Notices sent to the permanent address at Gangawadi village, Mandya District, and the temporary address at Srinagar, Bengaluru, were returned with postal endorsements "person not residing", "door locked, party left", etc. Further notices for enquiry dates 19.04.2008, 20.08.2009 and 14.09.2009 met the same fate, except that one acknowledgement card (Annexure-R21) bore the petitioner's signature. Paper publications were also issued in both the newspapers at the subsequent stages. The enquiry proceeded ex parte. The Enquiry Officer submitted a report holding the charge of unauthorised absence proved. A second show-cause notice was published in



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newspapers. No reply was received. By order dated 27.02.2013, the third respondent dismissed the petitioner from service. An appeal preferred on 24.12.2018 was dismissed by the first respondent on 30.08.2019. The Tribunal, after examining the original records, the provisions of Rules 11(20) and 14(ii) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (hereinafter "KCS (CC&A) Rules"), and the limited scope of judicial review, dismissed the application.

3. The principal contentions urged in the writ petition and by learned counsel for the petitioner are:

(i) that enquiry notices were never served and the enquiry was held in violation of Rule 11 of the KCS (CC&A) Rules and the principles of natural justice;

(ii) that the enquiry was conducted by the Presenting Officer and not by the Enquiry Officer;



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(iii) that two enquiry reports were submitted and the final order was passed after an unexplained delay of nearly four years;

(iv) that the petitioner had met with a serious accident on 09.11.2007 resulting in amputation of the right leg below the knee and 60-65% permanent disability, and therefore the absence was neither deliberate nor wilful; and

(v) that the punishment of dismissal is disproportionate to the charge.

4. Learned Government Advocate supported the order of the Tribunal and submitted that every possible step to serve notice on the petitioner was taken, that the petitioner deliberately avoided service, that the enquiry was validly held *ex parte*, that the scope of interference under Articles 226 and 227 of the Constitution is extremely limited, and that no case of perversity or violation of the principles of natural justice is made out.



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5. We have carefully considered the rival submissions, the order of the Tribunal, the original records as examined by the Tribunal, and the documents placed on record.

6. The scope of judicial review of departmental enquiry proceedings is well settled. In ***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749, S.R. Tewari v. Union of India, (2013) 6 SCC 602, State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423,*** and ***Deputy General Manager (Appellate Authority) v. Ajai Kumar Srivastava, (2021) 2 SCC 612,*** the Hon'ble Supreme Court has consistently held that the Tribunal or the High Court does not sit as an appellate authority over the findings of the Enquiry Officer. Re-appreciation of evidence is impermissible. Interference is warranted only when the findings are based on no evidence, or are perverse, or when there is a clear violation of the principles of natural justice or the statutory rules governing the enquiry.



7. On the question of service of notice, the Tribunal has exhaustively examined the original records. Multiple registered covers sent to both the permanent and temporary addresses were returned with endorsements of the postal authorities indicating that the addressee was not available. Paper publications were effected. One acknowledgement card bears the petitioner's signature. Rule 11(20) of the KCS (CC&A) Rules expressly empowers the Inquiring Authority to proceed *ex parte* if the charged officer fails to appear or fails to comply with the provisions of the Rule. The said provision Rule 11 (20) of the KCS (CCA&A) Rules, reads as under:

"11 (20) If the Government Servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Inquiring Authority or otherwise fails to refuses to comply with the provisions of this



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rule at any stage of the enquiry the Inquiring Authority may hold the inquiry ex parte."

Rule 14(ii) further provides a special procedure where the officer has absconded or it is impracticable to communicate with him and the same reads as under:

"14. Special procedure in certain cases.-Notwithstanding anything contained in

Rules 11 to 13.-

(i).....

(ii) where the officer concerned has absconded, or where the officer concerned does not take part in the inquiry or where for any reasons to be recorded in writing it is impracticable to communicate with him, or where the Disciplinary Authority, for reasons to be recorded in writing, is, satisfied that it is not reasonably practicable to follow the procedure prescribed in the said rules; or



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(iii)"

The Tribunal has rightly held that the disciplinary authority and the Enquiry Officer followed the prescribed procedure. The contention that notices were never served is contrary to the material on record and cannot be accepted.

8. The allegation that the enquiry was conducted by the Presenting Officer and not by the Enquiry Officer is not substantiated by any material that would vitiate the entire proceedings. The Enquiry Officer's report, the covering letter and the proceedings on record indicate that the Enquiry Officer applied his mind and recorded findings. Even assuming some irregularity in the mode of recording evidence, the same does not, by itself, render the enquiry void when the charged officer remained consistently absent despite repeated opportunities.

9. The submission regarding two reports and the delay in passing the final order also does not assist the



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petitioner. The charge of prolonged unauthorised absence stood proved on the basis of the departmental evidence. The fact that the final order was passed in 2013 after the report of 2011 does not, in the facts of this case, amount to such fatal delay as would warrant interference, particularly when the petitioner himself remained silent for years and preferred the appeal only in December 2018.

10. The accident suffered by the petitioner on 09.11.2007 and the consequent disability are unfortunate. However, the unauthorised absence commenced from 15.10.2005 more than two years prior to the accident. The disciplinary proceedings had already been initiated, articles of charge framed, and multiple attempts at service made, long before the accident. The accident, therefore, cannot retrospectively justify the earlier prolonged absence or the consistent non-participation in the enquiry. The medical records and disability certificate, though placed before the Tribunal, do not demolish the finding of



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unauthorised absence or render the enquiry proceedings illegal.

11. On the question of proportionality of punishment, it is well settled that the quantum of punishment is primarily within the domain of the disciplinary authority. Courts interfere only when the punishment is shockingly disproportionate. Continuous unauthorised absence for years, non-response to notices, and non-participation in the enquiry constitute serious misconduct. In the facts of the present case, the punishment of dismissal cannot be said to be so disproportionate as to shock the conscience of the Court.

12. The Tribunal has carefully examined the original records, applied the correct legal principles regarding the limited scope of judicial review, and recorded concurrent findings. No perversity, illegality or jurisdictional error is made out. Interference under Articles 226 and 227 of the Constitution is not warranted.



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13. For the foregoing reasons, the writ petition is devoid of merit and is liable to be dismissed.

ORDER

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

(ii) The order dated 30.03.2022 passed by the Karnataka State Administrative Tribunal, Bengaluru, in Application No. 6728/2019 is affirmed.

(iii) No order as to costs.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

BNV
List No.: 1 Sl No.: 25