

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO.1217 OF 2023 (S-DIS)

BETWEEN:

SRINIVAS NAIK S.
S/O LATE SRI. SREERANGAPPA
AGED ABOUT 72 YEARS,
#14, SRIGIRI, SFS 407 MAIN ROAD,
4TH PHASE, YELAHANKA NEW TOWN,
BANGALORE 560 016.

...APPELLANT

(BY SRI. D.S.RAMACHANDRA REDDY, ADV.)

AND:

- 1 . ADDITIONAL CHIEF SECRETARY
GOVERNMENT OF KARNATAKA,
ENERGY DEPARTMENT,
VIKASA SOUDHA,
BENGALURU-560 001.
- 2 . THE MANAGING DIRECTOR
K. P. T. C. L.,
CAUVERY BHAVAN,
BENGALURU-560 009.
- 3 . DIRECTOR (ADMIN AND HRD)
K.P.T.C.L. CORPORATE OFFICE,
CAUVERY BHAVAN,
BENGALURU-560 009.

4 . THE POWER COMPANY OF KARNATAKA
LIMITED,
K.P.T.C.L. BUILDING,
CAUVERY BHAVAN,
BENGALURU-560 009.
REPRESENTED BY ITS
MANAGING DIRECTOR

...RESPONDENTS

(BY SMT. PRAMODINI KISHAN, AGA FOR R1;
SRI. SRIRANGA, SR. COUNSEL A/W
SMT. ANEESH KRISHNA, ADV. FOR
SMT. SUMANA NAGANAND, ADV. FOR R3 AND R4;
R2 - SD)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE
ORDER MADE BY THIS COURT IN WRIT PETITION NO.2327/2012
DATED 23.08.2023 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 10.03.2026 AND COMING ON FOR
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN**
J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This writ appeal is preferred against the Order dated 23.08.2023, passed by the learned Single Judge in W.P.No.2327/2012 (S-DIS).

2. We have heard Shri. D.S.Ramachandra Reddy, learned counsel appearing for the appellant, Sri. Sriranga, learned senior counsel along with Shri. Aneesh Krishna, learned counsel as instructed by Smt. Sumana Naganand, learned advocate appearing for respondents No.3 and 4 and Smt. Pramodini Kishan, learned Additional Government Advocate appearing for respondent No.1.

3. The question raised in this writ appeal is whether the dismissal of the writ petition on the ground that the quashing of the criminal proceedings against the petitioner was conditional on his giving up his contentions as against the Order of dismissal is justified or not.

4. The short facts necessary for considering the question are as under:-

The appellant was working as Director (Commercial) in the respondent No.4 - The Power Company of Karnataka Limited. While so, he took a decision to invest Rs.18 Crores available in Bajaj Alliance Life Insurance Company. The said amount was invested without obtaining permission from the board of respondent No.4 - Company or the Karnataka Power Transmission Corporation Ltd. ('KPTCL'). A memo of charges was issued on 06.07.2009, alleging the following charges:-

"Charge-1:

You being the responsible Director (Commercial) of the PCKL, Bangalore were expected to perform your functions as is expected by the Company. Though the Company has stipulated the powers of the Directors in respect of investment of money and that you are expected to follow the same, you have neglected the same and you have exercised authority in excess of the powers delegated to you and a sum of Rs.18 Crores (Rupees Eighteen Crores Only) being Share Capital received from ESCOMs has been invested with M/s Bajaj Allianz LIC Ltd., Bangalore vide Cheque Nos. 023321 and 023322 dated 25.01.2008 in violation of the provision made under item no. 101 (m) of Memorandum of Association and Articles of Association of PCKL and without approval of the Managing Director, PCKL or the Board of PCKL. The net worth of the investment

made had eroded and the Company has to sustain a loss of Rs.5 Crores. Your above said act in work is a misconduct as per Regulation-3 (1) (ii) and item no (iii) and (vii) of Annexure-B read with Regulation-33 of KEB Employees' Services (Conduct) Regulations, 1988.

Charge-2:

You being the responsible Director (Commercial) of the PCKL, Bangalore were expected to perform your functions as is expected by the Company. Though it was brought to your knowledge regarding the nature and type of Policies given by M/s Bajaj Allianz LIC Ltd., Company in response to the investment made, you have not taken immediate care for obtaining Corporate Policies instead of Personal Insurance Policies from the said LIC Company. Thus you have shown negligence in your work. Your above said act of negligence in work is a misconduct as per item no (vii) of Annexure-B read with Regulation-33 of KEB Employees' Services (Conduct) Regulations, 1988."

The appellant submitted a reply on 16.07.2009. A Departmental Enquiry was held and the final show cause notice dated 26.02.2011 was issued with a copy of the Enquiry Report. The reply was submitted on 10.03.2011 by the appellant, pursuant to which Annexure - A, Order was passed on 28.04.2011, imposing the punishment of

dismissal from service. While so, criminal proceedings were also initiated against the appellant. The appellant challenged the criminal proceedings in Special C.C.No.104/2011 by filing Criminal Petition Nos.6197/2011, 4074/2009 and 6260/2011. The Criminal Petitions were disposed of, recording that an amount of Rs.4,98,23,500/- was received from Bajaj Alliance Life Insurance Company and recording the submission of the Company that the criminal case may be quashed on condition that the benefit of the Order shall not enure to the employees and that they shall be precluded from claiming reinstatement and any other reliefs arising out of the employment.

The specific contention of the respondents before the learned Single Judge was that after accepting quashing of the criminal proceedings on the specific ground that they would be precluded from challenging the disciplinary proceedings, the appellant could not have even filed the writ petition. The learned Single Judge accepted the said contention and dismissed the writ petition.

5. The learned counsel appearing for the appellant submits that what is recorded at paragraph number 3 of the earlier criminal case was only the submission of the Company and that the appellant had not accepted the said condition. It is contended that since no findings were recorded by the Court on the request made by the Company, the petitioner cannot be precluded from exercising his constitutional right of challenge as against the disciplinary proceedings.

6. The learned counsel appearing for the appellant has placed the reliance on the following judgments:-

- ***Kalpraj Dharmshi and Anr. v. Kotak Investment Advisors Ltd. and Anr.***, reported in ***AIR ONLINE 2021 SC 206***;
- ***Olga Tellis and Ors. v. Bombay Municipal Corporation and Ors.***, reported in ***(1985) 3 SCC 545***;
- ***Motilal Padampat Sugar Mills Co. Ltd. v. State of Uttar Pradesh and Ors.***, reported in ***(1979) 2 SCC 409***;
- ***Basheshar Nath v. Commissioner of Income Tax, Delhi & Rajasthan and another*** reported in ***(1959) 35 ITR 190***; and

- ***Nar Singh Pal v. Union of India and Others*** reported in **(2000) 3 SCC 588.**

7. The learned senior counsel appearing for the KPTCL, on the other hand, contended that it was specifically on the understanding that the disciplinary proceedings would not be open to challenge that the criminal case against the writ petitioner was quashed. It is further contended that a reading of the judgment of the learned Single Judge would make it clear that the writ petition was a complete abuse of process of court and the appeal is liable to be dismissed with exemplary costs.

8. The learned senior counsel appearing for respondents No.3 and 4 places reliance on the following decisions:-

- ***Mohanlal Goenka v. Benoy Kishna Mukherjee and Others***, reported in **(1952) 2 SCC 648;** and
- ***State of West Bengal v. Hemant Kumar Bhattacharjee & Others***, reported in **1962 SCC OnLine SC 319.**

9. We have considered the contentions advanced. The learned Single Judge has specifically adverted to the

manner of disposal of the criminal case. Paragraphs No.3 and 4 of the earlier judgment specifically reads as follows:-

"3. Since the petitioners are the public servants being the employees of the Power Corporation of Karnataka Limited, it is submitted by Sri.Udaya Holla learned Senior Counsel and Sri.C.V.Nagesh, learned Counsel appearing for the parties that the matter has been settled and that the respondent-complainant has no objection for quashing proceedings. However, it is submitted by learned Counsel for the complainant-respondent No.2 that in respect of misconduct of the employees, the complainant has taken action according to their service rules and the erring officials have been terminated from service. While quashing the proceedings, it is requested that this order of quashing proceedings, being in the interest of the company and the company has received the payment of Rs.4,98,23,500/-, the benefit of this order shall not enure to the employees/petitioners and that they shall be precluded from claiming reinstatement and any other reliefs arising out of their employment by virtue of this order.

4. Keeping these facts on record, proceedings in Special C.C.No.104/2011 pending on the file of XXIII Additional City Civil Judge and Special Judge, Bangalore City and Crime No.308/2009 of Ulsoor Gate, Bangalore, are hereby quashed."

10. It is therefore clear that the appellant who was the petitioner in Criminal Petition No.6260/2011 had

accepted the quashing of the criminal complaint against him on the specific understanding that he would be precluded from challenging the dismissal Order passed against him. After having obtained the benefit of quashing of the criminal case on the specific understanding that he could not challenge the Order passed in the disciplinary enquiry, we are clear in our minds that the appellant could not have approached this Court filing a writ petition against the Order of dismissal.

11. The learned counsel appearing for the appellant submits that the appellant is put to great loss and difficulty due to the dismissal of the writ petition. We are of the opinion that having taken an informed decision to consent for the quashing of the criminal proceedings on condition that he would not challenge the order passed in the Disciplinary Enquiry, the appellant cannot raise the said contentions.

12. In the above view of the matter, we find no merit in the appeal. The appeal fails and the same is accordingly ***dismissed.***

All pending interlocutory applications shall stand disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

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