

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO. 1264 OF 2023 (S-RES)

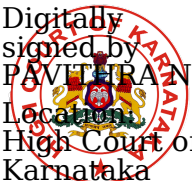
BETWEEN:

- 1 . THE KARNATAKA POWER TRANSMISSION
CORPORATION LIMITED
REPRESENTED BY THE SECRETARY
CAUVERY BHAVAN
BENGALURU-560 009
- 2 . CHIEF ENGINEER (EI)
AND THE APPELLATE AUTHORITY
MANGALORE ELECTRIC
SUPPLY COMPANY LIMITED
ZONAL OFFICE, MAROLI
KULASHEKARA POST
MANGALURU-575 005
- 3 . THE SUPERINTENDING ENGINEER (EI)
AND DISCIPLINARY AUTHORITY
MANGALORE ELECTRIC SUPPLY
COMPANY LIMITED
O AND M DIVISION
SHIMOGA-577 201

...APPELLANTS

(BY SMT. RAKSHITHA D.J., ADVOCATE)

Digitally
signed by
PAVITHRA N
Locatun
High Court of
Karnataka



AND:

- 1 . SMT. N.B. KUMARI SUMITRA
W/O LATE R.B. NANJUNDAPPA
AGED ABOUT 39 YEARS
- 2 . S.N. SHIVARAJ
S/O LATE R.B. NANJUNDAPPA
AGED ABOUT 21 YEARS

BOTH ARE R/AT.
'SHRESTHA NILAYA'
6TH CROSS, HARIGE
VIDYANAGARA
SHIMOGA-577 201

...RESPONDENTS

(BY SRI. P.N. NANJAREDDY, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO (i) WHEREFORE, THE APPELLANTS PRAY THAT THIS HON'BLE COURT MAY BE PLEASED TO CALL FOR RECORDS AND SET ASIDE THE ORDER DATED 04.09.2023 IN W.P. No.2459/2012 IN THE INTEREST OF JUSTICE AND ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 21.07.2026 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 MR. JUSTICE VENKATESH NAIK T

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

This writ appeal is filed challenging the Order of the learned Single Judge dated 04.09.2023 passed in W.P.No.2459 of 2012 (S-RES).

2. We have heard Smt. Rakshitha D.J., learned counsel appearing for the appellants and Shri. P.N. Nanjareddy, learned counsel appearing for respondents.

3. The learned counsel appearing for the appellants submits that late Sri R.B. Nanjundappa- deceased employee, joined the services of the Karnataka Electricity Board as a Junior Assistant on 05.08.1976. On account of habitual unauthorised absence, he was placed under suspension on 04.10.1996. The suspension was subsequently revoked and he was reinstated on 17.12.1996 and was transferred to Balehonnur Sub-Division. He however continued to remain absent from 14.10.1997. Pursuant to a show cause notice, he resumed duty on 25.05.1998 and furnished an undertaking that he would not absent himself from duty. However, he once again absented himself from 11.09.1998.

Consequently, disciplinary proceedings were initiated against him by appellant No.11 and after the enquiry in which the charge of unauthorised absence stood proved, the employee was dismissed from service by Order dated 14.08.2000.

4. Aggrieved by the Order of dismissal dated 14.08.2000, the employee preferred W.P.No.1606/2001 before this Court. The learned Single Judge held that a copy of the enquiry report ought to have been furnished to the employee to enable him to make a representation against the proposed penalty, and accordingly disposed of the petition with a direction to the appellants to issue fresh notice within four weeks and to pass appropriate orders after affording the employee four weeks' time to file his objections. Therefore, the appellants issued a fresh notice but the employee, instead of filing objections addressed a letter insisting on reinstatement. Thereafter, appellant No.3 passed a fresh order of dismissal dated 11.05.2004. The said order was not challenged by the employee and he died on 05.03.2008.

5. The legal representatives of the deceased employee on 15.07.2011 preferred an appeal against the Order of dismissal dated 11.05.2004, before the Appellate Authority. By order dated 15.12.2011, the Appellate Authority dismissed the appeal on the grounds that the employee, though alive between 2004 and 2008, had not chosen to challenge the order of dismissal and there was no provision in the regulations enabling the legal representatives of a deceased employee to prefer an appeal.

6. Aggrieved by the order dated 15.12.2011, the legal representatives of the employee filed W.P.No.2459/2012 before this Court. The learned Single Judge allowed the writ petition, holding that the penalty of dismissal was disproportionate, because the material on record indicated that the employee was unwell and the employee had served the appellant from 1976 until his termination in 2004 without any allegation of unauthorised absence barring the period of four months stated in the Chargesheet and the appeal preferred by the wife of the deceased employee could not be dismissed as not

maintainable, since the consequences of a dismissed employee failing to prefer an appeal fall upon his family, and the family's decision to prosecute the rights of the deceased and challenge the order of dismissal cannot be regarded as improper or illegal. Therefore, the learned Single Judge set aside the impugned order and substituted the penalty of dismissal with that of compulsory retirement, directing the appellants to pay all terminal benefits due to the deceased employee to the respondents within a period of three months.

7. The learned counsel appearing for the appellant contends that the learned Single Judge failed to notice that the writ petition was hit by delay and laches, having been filed by the legal representatives of an employee who had not chosen to challenge the order of dismissal during his lifetime. It is contended that the learned Single Judge grossly erred in allowing the writ petition, as the deceased employee was alive between 2004 and 2008 but did not avail the remedy of appeal provided under the regulations. The right to challenge the order of dismissal, being personal

to the employee, stood extinguished upon his death, and the respondents have no *locus standi* to assail the same.

8. It is further contended that the finding of the learned Single Judge that the articles of charge framed by the appellants did not clearly mention the repeated unauthorised absence of the employee, is contrary to the record. Charge No.1 itself discloses that the employee was placed under suspension on 04.10.1996 on account of habitual unauthorised absence and this suspension was subsequently revoked and he was reinstated on 17.12.1996. Nevertheless, the employee continued to remain unauthorisedly absent from 14.10.1997, despite the issuance of a show cause notice and his own undertaking that he would not absent himself from duty

9. The learned counsel appearing for the appellants places reliance on the following judgments:-

- ***Union of India and Others v. P. Gunasekaran***, reported in **(2015) 2 SCC 610**;

- ***Chairman & Managing Director, V.S.P. and Others v. Goparaju Sri Prabhakara Hari Babu***, reported in **(2008) 5 SCC 569**;
- ***Boloram Bordaoloi v. Lakhimi Gaolia Bank and Others*** passed in ***Civil Appeal No.4394 of 2010*** dated **08.02.2021**;
- ***Sri. M. Manjunatha v. Karnataka State Road Transport Corporation*** passed in ***W.A.No.773/2021*** dated **13.01.2023**;
- ***Mrinmoy Maity v. Chhanda Koley and others*** passed in ***Civil Appeal No.5027/2024*** dated **18.04.2024**;
- ***Delhi Transport Corporation v. Mahender Singh*** passed in ***W.P.(C)No.10360/2016*** dated **07.01.2025**; and
- ***The Senior General Manager (Cellular) through its Authorized Officer Mr. Mrugeshkumar Jayanthilal Shah and Others v. Rajat Singh*** passed in ***Misc. Petition No.318/2024*** dated **26.03.2025**.

10. The learned counsel appearing for the respondents contends that once the order of dismissal was quashed by this Court in W.P.No.1606/2001, the employee was entitled to reinstatement with arrears of salary and consequential benefits. Despite repeated representations, no such benefits

were extended to him. It is contended that the employee was bedridden on account of serious ailment and eventually succumbed to the same, and on this ground alone the impugned order of dismissal is liable to be set aside.

11. It is further contended that before passing the fresh order of dismissal, the appellants ought to have been satisfied by examining the materials on record, rather than conducting an *ex-parte* enquiry against the employee. It is also contended that after the death of the employee, a representation was submitted seeking compassionate appointment for respondent No.2 and for release of the benefits of the employee, and that though the officials of the appellants had recommended the case of respondent No.2, the same has not been considered. Further, the learned counsel appearing for the respondents places reliance on ***B.C. Chaturvedi v. Union of India and others***, reported in **(1995) 6 SCC 749**.

12. Having considered the contentions advanced on either side and the decisions relied on, we are of the opinion

that the judgment of the learned Single Judge is not liable to be interfered with in this intra-Court appeal.

13. The contentions raised by the appellants in this appeal have been specifically considered by the learned Single Judge in the judgment under appeal. The learned counsel for the appellants would contend that the unauthorized absence was not only from 27.01.1997 to 28.05.1997 but had continued thereafter as well, which is clear from the memo of charges served to the delinquent employee. The translations of the memo of charges read as under:-

"Allegation-1:-

While you are working as Junior Assistant in Honnalli, you have been kept under suspension, as per Order No: SE: SS: K 26 11000-06 dated:17-12-96 of Superintendent Engineer (Ele) KPTCL Shimoga you have been re-appointed to Bale Honnuru Sub division. Even though you are relieved from duty in Honnalli on date: 27-1-97 but you have not reported to duty in Balehonnur till date: 28-5-97. Later, you have reported to duty in Balehonnur on date: 14-8-97. You have worked till dated:21-8-97. You have been unauthorizedly absent to the duty from date: 14-10-97. Later after issue of Final Notice in Letter No: EE: PA: 29-33 dated: 19-05-98 of Executive Engineer (Ele) KPTCL Chikkamagalur, you have

presented in Chikkamagalur on date: 25-5-98, you have given bond that you will not unofficially be absent to duty again and will work honestly, but even after this, you have been unofficially absent to duty.

Explanation of Allegation:- Due to your habit, daily operations of the office are hindered. The statistics to be sent within prescribed time could not be sent and there was delay in sending DCB of our sub division. You have given a bond that will not unofficially absent to the duty again and will work honestly but again followed the same habit has falsified your statement.

Allegation-2:-

You Sri R B Nanjundappa working in Balehonnur Sub division as Junior Assistant, since you were unofficially absent to the duty, your work has been hindered in the Revenue Department, there was delay in submission of urgent information to be submitted to board. Therefore, your unofficial absence has caused delay in submission of immediate information and affected the operations of the office.

Explanation of Allegation:- Since you are unofficially absent for the duty in Balehonnur Sub division as Junior Assistant the works of Revenue Section have faced a setback, there was delay in submission of urgent information to be submitted to board. Your unofficial absence caused disturbance in the proper discharge of works of board.

Allegation: 3:-

You Sri R B Nanjunadappa while working in Bale Honnur Sub division as Junior Assistant, you have shown

dereliction of duty, negligence in duty of corporation and has acted irresponsibly.

Explanation for Allegation: You are working in Balehonnur Sub division as Junior Assistant. You have committed dereliction of duty by unofficially absent to the duty for a long time. This shows your negligence and irresponsibility towards duty of corporation.

Allegation No:4

You Sri R B Nanjunadappa while working in Bale Honnur Sub division as Junior Assistant, you have shown irresponsibility without replying to the duty call notice, and other notice in prescribed time.

Explanation:-

You are working in Honnali Sub division of Shimoga Division and was in suspension, As per order No: SE: NCA: F-26 1100-06 dated: 17-12-96 of Superintendent Engineer (Ele) KPTCL Shimoga, you have been re-appointed to the Balehonnur Sub division, but you are not reported to the Honnali Sub division for relieving from duty even after informing in registered letter. As per Office Order No: AEE: HAS: F-1: 3758-61 dated: 27-1-97 of Assistant Executive Engineer (Ele) KPTCL Honnali it is considered as you are relived from duty. Later while you are working in Balehonnur, even though you have received registered letters dated; 27-11-98, 12-2-99 and 24-7-99 you have not given explanation to matters mentioned in these letters. This shows your irresponsibility about corporation.

Therefore, it is informed you to submit your explanation in respect of aforesaid allegations on why

cannot we take actions against you as per rules corporation for aforesaid allegations, submit to Enquiry Officer within 15 days of receipt of this letter."

14. The Apex Court in **B.C. Chaturvedi's** case (supra), has clearly held that where the Constitutional Court, exercising judicial review is convinced of the gross disproportionality of the punishment, it is open to the Court either to remand the matter for a re-consideration on the question of punishment, or to impose a lower punishment by itself, which is what has been done by the learned Single Judge.

15. We notice that the learned Single Judge has considered these aspects of the matter. Though the memo of charges, states that the employee was unauthorizedly absent from 27.01.1997 to 28.05.1997 and even thereafter, the learned Single Judge found that the order of dismissal passed against the employee was grossly disproportionate to the charges proven against him. It was found that after the husband of respondent No.1 passed away, respondent No.1 had been submitting representations, seeking appointment

of respondent No.2 on compassionate grounds and thereafter, preferred an appeal on 15.07.2011.

16. We notice that the only allegation against the employee is one of unauthorized absence. Though separate instances of unauthorized absence is alleged, details and dates of the repeated instances are not available even in the memo of charges or the statement of allegations. The learned Single Judge considered the contentions and found that the contentions raised by the party respondents against the Order imposing penalty had not been considered by the appellants at all. In the facts and circumstances of the instant case, where an employee who had served the Corporation from 1976 onwards has been inflicted with the ultimate punishment of dismissal, which would disentitle the family from claiming any benefits of his long service, we have no doubt that a technical plea of delay or lack of provision for appeal by the legal representatives should not stand in the way of substantial justice being rendered to the family of an employee.

17. In the facts and circumstances of the instant case, we are of the opinion that there is no error in the exercise of jurisdiction by the learned Single Judge, warranting interference in an intra Court appeal. The appeal therefore fails, the same is accordingly ***dismissed***.

All pending applications shall stand *disposed of*.

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**

PN/cp*