

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO. 29244 OF 2023 (S-KSAT)

BETWEEN:

SRI K. SOMESH
S/O LATE K.M.KRISHNAPPA
AGED ABOUT 45 YEARS
R/A LIG 44, KHB COLONY
BEHIND C.S. CONVENTION HALL
HOSKOTE
BENGALURU RURAL DISTRICT-562 114.

...PETITIONER

(BY SRI M.P. SRIKANTH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
DEPARTMENT OF TRANSPORT
M.S. BUILDING
VIDHANA SOUDHA
BENGALURU – 560 001.
2. THE TRANSPORT COMMISSIONER
AND DISCIPLINARY AUTHORITY
DEPARTMENT OF TRANSPORT
TTMC BUILDING, SHANTHI NAGAR
BENGALURU – 560 027.
3. THE REGIONAL TRANSPORT OFFICER
BENGALURU CENTRAL
(DEPARTMENT OF TRANSPORT)
HSR LAYOUT, BENGALURU-560 102.

...RESPONDENTS

(BY SRI H.B. KESHAVA MURTHY, ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER

Digitally signed
by G
SHREE RAKSHA
Location: HIGH
COURT OF
KARNATAKA

DATED 02/11/2023 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT BENGALURU IN APPLICATION NO.5446/2022 VIDE ANNEXURE-D TO THE WRIT PETITION AND CONSEQUENTLY ALLOW THE APPLICATION NO.5446/2022 FILED BY THE PETITIONER AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.08.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV JUDGMENT

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

The present petition is filed challenging the order dated 02.11.2023 in Application No.5446/2022 passed by the Karnataka State Administrative Tribunal ('the Tribunal' for short) confirming the dismissal of the petitioner by virtue of order dated 01.10.2022 in Numbered Sa Ri E7 Sa E Se 2016 Bengaluru passed by the respondent No.1.

2. The petitioner herein is the applicant and the respondents herein are the respondents before the Tribunal.

3. The brief facts of the case are that:-

The petitioner was appointed as a Second Division Assistant (SDA) in the office of respondent No.3 with

effect from 22.01.2013 and reported for duty on 24.01.2013. During the course of his service, the Regional Transport Officer submitted a report dated 05.09.2014 to respondent No.2 alleging misappropriation of Government money by the petitioner. On the basis of the said report, respondent No.2 passed an order dated 06.09.2014 placing the petitioner under suspension under Rule 10(1)(c) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 ['The KCS (CCA) Rules' for short] .

4. The petitioner questioned the order passed by respondent No.2 before the Tribunal in Application No.9135/2014. The Tribunal, by order dated 05.02.2016, set aside the order of suspension, while reserving liberty to the respondents to take such course of action as may be available in law, if the petitioner had committed any misconduct. In the meanwhile, pursuant to the order dated 20.09.2014 issued by the Joint Commissioner, Bengaluru, directing verification of the accounts, a show-cause notice dated 15.10.2014 was issued alleging that

the petitioner, while working as SDA in the Treasury Branch of RTO, K.R.Puram, had entered one amount in the office challan and another amount in the challan issued to the vehicle owners, resulting in misappropriation of Government money.

5. The petitioner submitted his reply to the show-cause notices dated 15.10.2014 and 22.12.2014 on 16.01.2015. Thereafter, the Transport Commissioner and Disciplinary Authority issued notice dated 19.02.2015 under Rule 11 of the KCS (CCA) Rules along with Articles of Charge Nos.1 to 4, to which the petitioner submitted his reply on 06.03.2015. A further show-cause notice dated 29.06.2016 along with Articles of Charge was issued to the petitioner, which was received by him on 08.07.2016, and the petitioner submitted his reply denying the allegations.

6. Subsequently, by communication dated 03.06.2017, respondent No.1 directed the Commissioner of Transport to take further action in respect of the alleged misappropriation and recovery of Rs.8,95,539/- with interest at 8% per annum. The Transport Commissioner

thereafter issued a communication dated 11.07.2017 to the Deputy Transport Commissioner and the concerned officers at K.R.Puram in that regard. The petitioner preferred an appeal under Rule 18(1) of the KCS (CCA) Rules on 02.08.2017. During the pendency of the said appeal, respondent No.1, by order dated 12.02.2018, appointed an Enquiry Officer under Rule 13 of the KCS (CCA) Rules to conduct a joint enquiry against the petitioner and ten other officials. The petitioner participated in the enquiry and filed his written statement on 28.11.2018.

7. The Enquiry Officer submitted a report dated 12.02.2018, signed on 26.02.2019, holding the charge against the petitioner proved and the charges against the remaining delinquents not proved. Thereafter, a second show-cause notice dated 14.05.2020 enclosing the enquiry report was issued to the petitioner under cover of letter dated 21.05.2020. The petitioner submitted his reply disputing the findings of the Enquiry Officer. Upon consideration of the material on record and the petitioner's

explanation, respondent No.1 passed the order dated 01.10.2022 under Rule 8(iii) of the Karnataka Civil Services (Probation) Rules, 1977 and Rule 7 of the KCS (CCA) Rules dismissing the petitioner from service and directing recovery of Rs.8,95,539/- from him. Aggrieved by the said order, the petitioner filed Application No.5446/2022 before the Tribunal.

8. The Tribunal, upon consideration of the pleadings, the documents placed on record and the submissions of the parties, examined the scope of judicial review in disciplinary proceedings and, relying upon the judgments of the Apex Court referred to in the impugned order, held that interference with the findings of the Enquiry Officer would be warranted only where the findings are perverse or based on no evidence. On consideration of the enquiry report, the Tribunal held that the Enquiry Officer had considered the oral and documentary evidence, including the evidence of three witnesses, Exs.P1 to P7 and Exs.D1 to D19, and had afforded due opportunity to the petitioner to participate in

the enquiry and cross-examine the witnesses. The Tribunal also took note of the affidavit dated 20.12.2016 sworn on 12.01.2017 relied upon by the Enquiry Officer and held that the findings were neither perverse nor based on no evidence. The Tribunal further held that the petitioner had been furnished with the enquiry report and afforded an opportunity to submit his reply before the Disciplinary Authority, which had considered the material on record before imposing the penalty. Holding that the penalty of dismissal from service was commensurate with the gravity of the misconduct proved against the petitioner, the Tribunal found no ground to interfere and, accordingly, by order dated 02.11.2023, dismissed Application No.5446/2022. Aggrieved by the said order, the petitioner preferred the present petition.

9. Learned counsel appearing for the petitioner would contend that the alleged discrepancy in the amounts was attributable to a technical defect in the software and that the petitioner had consistently raised the said defence before the departmental authorities. It is contended that

the respondents had failed to examine the software or any technical expert in that regard and that the Articles of Charge were not framed with the requisite particulars or supported by the necessary documents and witness details. Although the enquiry was ordered jointly against eleven delinquents, the Enquiry Officer ultimately held only the petitioner responsible, while the charges against the remaining delinquents were held not proved, and that the procedure prescribed under Rule 13 of the Rules had not been duly followed.

10. It is further contended that the disciplinary enquiry against the petitioner is contrary to Article 21 of the Constitution of India and the impugned order passed by respondent No.1 is contrary to Article 311(2) of the Constitution of India. The petitioner also disputed the affidavit dated 20.12.2016 stated to have been sworn on 12.01.2017, relied upon by the Enquiry Officer and the disciplinary authority, contending that he had not executed the same and that it had not been furnished to him for effectively meeting the allegation.

11. It is also contended that the findings of the Enquiry Officer and the order of the Disciplinary Authority were contrary to the material on record, that the petitioner's replies and objections had not been properly considered, and that the proceedings suffered from violation of the principles of natural justice and the provisions of the KCS (CCA) Rules. The petitioner accordingly questioned the order of dismissal as well as the consequential direction for recovery of Rs.8,95,539/-.

12. *Per contra*, Learned AGA supported the disciplinary proceedings and the order passed by the Disciplinary Authority. It is contended that the petitioner had committed serious misconduct involving misappropriation of Government money and that a regular departmental enquiry had been conducted by appointing a retired District Judge as the Enquiry Officer. It is submitted that the petitioner had been afforded adequate opportunity to participate in the enquiry and to cross-examine the witnesses.

13. It is further contended that, apart from the oral and documentary evidence adduced in the enquiry, the petitioner had submitted an affidavit dated 20.12.2016, sworn on 12.01.2017 before a Notary, admitting the allegations and his role in the misappropriation, and that the said affidavit had been considered by the Enquiry Officer as well as the Disciplinary Authority. According to the respondents, the finding of guilt was based on the material available on record, the petitioner had failed to establish any violation of the principles of natural justice or perversity in the enquiry report, and the penalty of dismissal and recovery was justified having regard to the gravity of the misconduct.

14. Heard learned counsel appearing for the petitioner as well as learned AGA appearing for the respondents.

15. Having heard learned counsel for the petitioner and learned Government Pleader for the respondents and having perused the material on record, the question that

arises for consideration is whether the order passed by the Tribunal declining to interfere with the disciplinary action warrants interference by this Court in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India.

16. It is well settled that, in exercise of judicial review, this Court does not sit in appeal over the findings recorded by the Enquiry Officer. The scope of interference is limited to examining whether the enquiry has been conducted in accordance with law, whether the delinquent was afforded a reasonable opportunity of defence, and whether the findings are based on evidence or suffer from perversity. Re-appreciation of the evidence and substitution of the view taken by the Enquiry Officer is not permissible merely because another view may be possible.

17. In the present case, the Tribunal has examined the enquiry report and noticed that the Enquiry Officer considered the evidence of PWs.1 to 3, the documents marked as Exs.P1 to P7 and the defence documents marked as Exs.D1 to D19. Upon consideration of the said

material, the Enquiry Officer recorded a finding that the charge against the petitioner was proved. The Tribunal has thereafter recorded a specific finding that the conclusion of the Enquiry Officer was not based on no evidence and could not be termed perverse.

18. The petitioner has relied upon the defence that the discrepancy in the amount was occasioned by a technical error in the software. The said defence was available to the petitioner in the disciplinary proceedings and was considered in the course of the enquiry. The mere fact that the Enquiry Officer did not accept the defence of the petitioner would not render the finding of guilt perverse. The petitioner has not demonstrated that the Enquiry Officer ignored material evidence or arrived at the conclusion on the basis of material which was not part of the enquiry. In the absence of such circumstances, this Court cannot re-appreciate the evidence to determine whether the defence of technical error ought to have been accepted.

19. The petitioner has also disputed the affidavit dated 20.12.2016, stated to have been sworn on 12.01.2017, which has been relied upon by the Enquiry Officer. The petitioner contends that he had not executed the said affidavit. The said document, however, was produced before the departmental authorities and was considered in the course of the enquiry. The dispute raised by the petitioner is essentially with regard to the evidentiary value of the document. The Enquiry Officer, after considering the material available before him, has relied upon the said document along with the other material on record. In the absence of any material establishing that reliance upon the document was wholly impermissible or that the petitioner was denied a reasonable opportunity to contest the material relied upon against him, the said contention does not warrant interference in exercise of judicial review.

20. The petitioner has further contended that, though the enquiry was conducted against several officials, the Enquiry Officer found the charge proved only against

the petitioner. The mere fact that the charges against the other delinquents were not found proved does not, by itself, render the finding recorded against the petitioner is unsustainable. The Enquiry Officer was required to consider the material available against each delinquent and record his finding accordingly. The petitioner has not established that the finding recorded against him is unsupported by the evidence on record merely because a different conclusion was arrived at in respect of the other delinquents.

21. It is observed that the contention regarding violation of the principles of natural justice and non-compliance with the prescribed procedure also cannot be accepted. The material placed on record establishes that the petitioner participated in the enquiry, the witnesses examined on behalf of the Disciplinary Authority were subjected to cross-examination and the petitioner submitted his defence before the Enquiry Officer. The enquiry report was thereafter furnished to the petitioner along with the second show-cause notice, and his

explanation was considered before the Disciplinary Authority passed the order of penalty. The petitioner has not demonstrated any procedural illegality which has resulted in denial of a reasonable opportunity of defence or which goes to the root of the disciplinary proceedings.

22. The order dated 05.02.2016 passed by the Karnataka Administrative Tribunal setting aside the order of suspension dated 06.09.2014 also does not invalidate the subsequent disciplinary proceedings. The said order specifically reserved liberty to the respondents to take such course of action as may be available in accordance with law if the petitioner had committed any misconduct. Therefore, the subsequent disciplinary proceedings cannot be held to be contrary to the said order.

23. The petitioner has also questioned the disciplinary proceedings on the ground of pendency of his statutory appeal and the alleged delay in conclusion of the proceedings. Mere pendency of the appeal or delay, without demonstrating violation of any mandatory provision or prejudice caused to the defence of the

petitioner, would not render the disciplinary proceedings invalid. No such prejudice has been demonstrated before this Court.

24. The petitioner has also contended that the order of the Disciplinary Authority is non-speaking and that his explanation to the enquiry report was not properly considered. The Tribunal has examined the penalty order dated 01.10.2022 and has recorded that the Disciplinary Authority considered the material, including the reply submitted by the petitioner, before imposing the penalty. The petitioner has not pointed out any particular material defence which was mandatorily required to be considered and was wholly omitted from consideration, so as to establish non-application of mind on the part of the Disciplinary Authority.

25. It is observed that once the charge against the petitioner is found to have been proved in a duly conducted departmental enquiry and such finding is supported by material on record, the question of penalty falls primarily within the jurisdiction of the Disciplinary

Authority. In the present case, the misconduct found proved relates to misappropriation of Government money amounting to Rs.8,95,539/-. The Tribunal has considered the nature and gravity of the proved misconduct and has found the penalty of dismissal from service, along with the direction for recovery of the said amount, to be reasonable, proper and proportionate.

26. Therefore, the petitioner has failed to establish that the finding recorded by the Enquiry Officer is based on no evidence, that the finding is perverse, that the disciplinary proceedings were conducted in violation of the principles of natural justice, or that the Tribunal committed any jurisdictional error in declining to interfere with the disciplinary action. The grounds urged by the petitioner, in substance, seek re-appreciation of the evidence and substitution of the view taken by the Enquiry Officer and affirmed by the Tribunal. Such an exercise is impermissible in the limited jurisdiction of judicial review.

27. We, therefore, find no error or illegality in the order dated 02.11.2023 passed by the Karnataka State

Administrative Tribunal, Bengaluru, in Application No.5446/2022 warranting interference under Articles 226 and 227 of the Constitution of India.

28. Accordingly, the writ petition is ***dismissed.***

29. The order dated 02.11.2023 passed by the Karnataka State Administrative Tribunal, Bengaluru, in Application No.5446/2022 is affirmed.

30. Consequently, the order dated 01.10.2022 passed by the first respondent shall remain undisturbed.

No order as to costs.

Pending IAs' if any, shall stand disposed of.

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

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

BNV