

High Court for the State of Telangana

**THE HONOURABLE THE CHIEF JUSTICE  
SRI RAGHVENDRA SINGH CHAUHAN  
AND  
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

**Writ Petition No.36312 of 2012**

Date: 23.01.2020

Between:

The Special Officer-cum-Revenue Division Officer,  
Yellandu Municipal Council, Yellandu,  
Khammam District

... Petitioner

... And

P.Sanjay Kumar (died per LR.)  
and three others

... Respondents

Counsel for the petitioner : Mr. Shanthi Neelam

Counsel for the respondent Nos.2 to 4: Government Pleader for  
Services I

Counsel for the respondent Nos.5 to 7: Mr. K. Rami Reddy

**The Court made the following:**

**ORDER:** *(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The applicant is aggrieved by the order dated 05.09.2012 in O.A.No.1138 of 2010, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the learned Tribunal has set aside the punishment order, passed against the applicant, Mr.P.Sanjay Kumar.

2. Briefly the facts of the case are that in 2002, Mr.P.Sanjay Kumar was appointed as Attender in Yellandu Municipality. During the course of his service, on 07.12.2005, he was issued with a charge memo, wherein three charges were framed. The three charges are as under:

“That Sri P.Sanjay Kumar, Attender, Yellandu Municipality while discharging the duties of the Bill Collectors has collected an amount of Rs.5,210/- on 10.05.2004 and Rs.5,550/- on 10.07.2004 of tax dues and not remitted into the Municipal Treasury or not handed over to the concerned staff to remit the same to the Municipal Treasury as such he has misappropriated an amount of Rs.10,760/-“.

“That he has given an amount of Rs.23,000/- collected towards tax and other revenues to the Municipal Commissioner, Yellandu directly instead handing over the amount collected to the Revenue Inspector/Revenue Officer/Manager as per the established procedure with due acknowledgement”.

“That with the above mentioned acts and omissions exhibited his lack of integrity, devotion to duty and conduct thereby contravened Rule 3 of A.P.C.S (Conduct) Rules, 1964”.

3. Not satisfied with the explanation given by the applicant, a joint enquiry was ordered. According to the enquiry report, dated 08.05.2008, three charges levelled against the applicant were held to be proved. On the basis of the enquiry report, the Government took a decision to remove the applicant from service. Therefore,

by order dated 14.09.2009, the applicant was removed from his service. Since the order dated 14.09.2009 was passed by the Government, and on the basis of the said order, the Chairperson issued the order, dated 23.11.2009, removing the applicant from his service. Since the applicant was aggrieved by the said orders, he filed an OA before the learned Tribunal. By order dated 05.09.2012, the learned Tribunal set aside the impugned orders. Hence, the present petition before this Court.

4. It is imperative to point out that the applicant, Mr.P.Sanjay Kumar, had expired during the pendency of the present writ petition; his legal representatives have been brought on record by order dated 16.12.2019.

5. The learned counsel for the petitioner submits that the impugned order passed by the Tribunal is not tenable as the Municipal Commissioner was involved in holding the enquiry, and in passing the order of punishment.

6. However, the position being taken by the learned counsel has been challenged by the learned counsel for the applicant. For, according to him, the initial order of removal was passed by the Government on 14.09.2009. The Municipal Commissioner has passed the order basing on the order passed by the Government without applying his mind. Therefore, the removal order stands vitiated. Hence, he has supported the impugned order passed by the learned Tribunal.

7. A bare perusal of the impugned order clearly reveals that it is the Government, which had taken a decision to remove

the applicant from service by its order dated 14.09.2009. However, the order of punishment necessarily has to be passed by the Municipal Commissioner, as the applicant was an employee of the Municipality. But the fact remains that the Municipal Commissioner has passed the order only on the order passed by the Government dated 14.09.2009. Therefore, he has not applied his mind to the facts and circumstances of the case. Hence, the learned Tribunal is justified in concluding that the order passed by the Municipal Commissioner is without application of mind.

8. For the reasons stated above, this Court does not find any illegality or perversity in the order passed by the learned Tribunal.

9. The writ petition, being devoid of merits, is hereby dismissed. Since the applicant's widow is on record, the petitioner is directed to ensure that all the benefits are paid to the widow within a period of two months from today. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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**(RAGHVENDRA SINGH CHAUHAN, CJ)**

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**(A.ABHISHEK REDDY, J)**

23<sup>rd</sup> January, 2020

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