

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE PULLA KARTHIK**

WRIT PETITION NO: 38477 OF 2013

Between:

S. CHANDRA SEKHAR RAO, Occ: Retd., Government Employee, R/o
H.No.#502, Pranati Kuteer, Sriramnagar, Yousufguda, Hyderabad -500045.

...PETITIONER

AND

1. The Registrar, AP Administrative Tribunal, Purani Haweli, Hyderabad.
2. The Government of Andhra Pradesh, Rep. by its Secretary (Ser & HRM),
General Admn. (SU-I) Department, A.P. Secretariat, Hyderabad-500 022.
3. The Government of Andhra Pradesh, Rep. by its Secretary, PR&RD
Department, A.P. Secretariat, Hyderabad-500 022.
4. The Commissioner, Panchayat Raj & Rural Employment, Urdu Galli,
Himayatnagar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari declaring Order dt.5.8.2013 in Rev.M.A.No.2507/2011 in O.A.No.8349/2008 and O.A.No.8349/2008 dt.22.4.2011 on the file of Hon'ble A.P. Administrative Tribunal, Hyderabad as illegal, arbitrary and consequently set aside the G.O.Ms.No.621 G.A.(SU-I) Department dt.1.10.2008 issued by the 2nd respondent where under the penalty of 100% cut in pension and gratuity which was imposed on the Petitioner herein as illegal, arbitrary and violative of rights guaranteed under Article 14, 16 and 21 of the Constitution of India and consequently set-aside the same.

I.A. NO: 2 OF 2013(WPMP. NO: 47820 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned order in G.O.Ms.No.621 G.A.(SU-I) Department dt.1.10.2008 and order in O.A.No.8349 of 2008 dt.22.4.2011 upheld in Rev.M.A.No.2507 of 2011 dt.5.8.2013 on the file of Hon'ble A.P. Administrative Tribunal, Hyderabad.

I.A. NO: 1 OF 2013(WPMP. NO: 47819 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to give a direction to the respondent authorities to pay provisional pension to the petitioner herein pending disposal of the above writ petition

**Counsel for the Petitioner: SRI PRATAP NARAYAN SANGI REPRESENTING
FOR M/s. K. MANI DEEPIKA**

Counsel for the Respondent No.2 TO 4: GP FOR SERVICES II

The Court made the following: ORDER

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**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK**

WRIT PETITION No.38477 OF 2013

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner aggrieved by the order, dated 05.08.2013, passed in Rev.M.A.No.2507 of 2011 in O.A.No.8349 of 2008 and the order, dated 22.04.2011, passed in O.A.No.8349 of 2008 by the Administrative Tribunal at Hyderabad.

2. Heard Sri Pratap Narayan Sangi, learned Senior Counsel representing Ms. K. Mani Deepika, learned counsel for the petitioner; and the learned Government Pleader for Services-II appearing for respondent Nos.2 to 4.

3. Learned Senior Counsel appearing for the petitioner contended that the petitioner is a retired Section Officer. Due to some financial irregularities said to have been committed by the petitioner, disciplinary proceedings were initiated against him while he was in service, *vide* charge memo, dated 07.03.1999. The Inquiry Officer has conducted an inquiry and

submitted his report on 18.03.2001. Thereafter, the petitioner submitted his explanation/objections to the said Inquiry Officer's report. In spite of the fact that the Inquiry Officer has submitted his inquiry report in the year 2001 itself, the respondent Nos.2 to 4 have not concluded the inquiry even at the time of retirement of the petitioner. The petitioner has retired from service on 30.06.2007. Thereafter, the State has issued a show-cause notice on 06.09.2008 to the petitioner to show cause as to why 100% cut in pension and gratuity should not be imposed against him. The petitioner has submitted his explanation to the said show-cause notice. In spite of the same, the State had issued G.O.Ms.No.621, dated 01.10.2008, imposing punishment of 100% cut in pension and gratuity against the petitioner. Aggrieved by the same, the petitioner filed the subject O.A.No.8349 of 2008 before the Tribunal and the Tribunal *vide* order, dated 22.04.2011, was pleased to dismiss the said O.A., without appreciating any of the contentions raised by the petitioner. Thereafter, the petitioner filed the subject Rev.M.A.No.2507 of 2011 and the Tribunal was pleased to dismiss the said review petition also

vide the impugned order, dated 05.08.2013, without appreciating any of the contentions raised by the petitioner.

4. Learned Senior Counsel appearing for the petitioner further contended that the Inquiry Officer had mechanically conducted inquiry. A perusal of the Inquiry Officer's report would abundantly make it clear that the Inquiry Officer has merely extracted each of the charge levelled against the petitioner and the explanation submitted by the petitioner and immediately, concluded the inquiry, without examining any witness, without appreciating any of the documents and without giving an opportunity to the petitioner. This fact was informed to the State by way of a representation, but the State has not taken the said representation into consideration and mechanically imposed punishment of 100% cut in pension and gratuity *vide* G.O.Ms.No.621, dated 01.10.2008, against the petitioner. Therefore, the entire disciplinary proceedings are vitiated, as the inquiry was not conducted as per the C.C.A. Rules, 1991. Learned Senior Counsel further contended that the Inquiry Officer has submitted the report way-back on 18.03.2001 and at that point of time, the petitioner was in service and the inquiry ought to have been

conducted as per C.C.A. Rules, but the inquiry was not conducted as per the C.C.A. Rules. The petitioner has been giving representations from the year 2003 onwards raising objections to the Inquiry Officer's report, as the said inquiry was conducted without following the service rules, but the State without considering the same, had finally issued G.O.Ms.No.621, dated 01.10.2008, imposing punishment of 100% cut in pension and gratuity against the petitioner, after his retirement from service. Therefore, appropriate orders be passed in the Writ Petition by setting aside the order passed by the State Government in imposing 100% cut in pension and gratuity *vide* G.O.Ms.No.621, dated 01.10.2008, and allow the Writ Petition.

5. On the other hand, learned Government Pleader for Services-II appearing for respondent Nos.2 to 4 contended that the charges levelled against the petitioner are very serious and grave in nature. The Inquiry Officer has followed the requisite procedure and submitted inquiry report holding that the charges levelled against the petitioner were proved. The State Government has rightly imposed 100% cut in pension and gratuity for the proven misconduct. There are no

merits in the Writ Petition and ultimately, prayed to dismiss the Writ Petition.

6. This Court, having considered the rival submissions made by the learned counsel for both sides, is of the considered view that the Inquiry Officer has not conducted the inquiry as per the C.C.A. Rules. The Inquiry Officer's report is filed at page No.140 of the material papers of the Writ Petition. A perusal of the said Inquiry Officer's report would disclose that the Inquiry Officer had extracted the charges levelled against the petitioner, the explanation submitted by the petitioner and immediately, gave his finding to each of the charge. No documents were marked and no witnesses were examined by the Inquiry Officer and by placing reliance on the Audit Report, the Inquiry Officer came to a conclusion that the charges levelled against the petitioner were held to be proved. Though the Inquiry Officer had referred to vouchers and cheque books, those documents were not examined during the course of inquiry by giving an opportunity to the petitioner. As admittedly, such an exercise was not undertaken by the Inquiry Officer, this Court is of the view that the Inquiry Officer has mechanically conducted the

inquiry. When the inquiry itself was not conducted as per the C.C.A. Rules, the findings recorded by the Inquiry Officer cannot be taken into consideration for imposing punishment of 100% cut in pension and gratuity *vide* G.O.Ms.No.621, dated 01.10.2008, against the petitioner. Therefore, this Court is of the considered view that the Inquiry Report, dated 18.03.2001, is liable to be set aside, as the same has been conducted contrary to the C.C.A. Rules. Consequently, the punishment imposed by the State Government *vide* G.O.Ms.No.621, dated 01.10.2008, based upon the defective inquiry report is also liable to be set aside.

7. Accordingly, the impugned order, dated 05.08.2013, passed in Rev.M.A.No.2507 of 2011 in O.A.No.8349 of 2008 and the order, dated 22.04.2011, passed in O.A.No.8349 of 2008 by the Administrative Tribunal at Hyderabad, are set aside. Consequently, the Inquiry Report, dated 18.03.2001, submitted by the Inquiry Officer and G.O.Ms.No.621, General Administration (SU-I) Department, dated 01.10.2008, issued by the State Government, are also set aside.

8. Since the charges levelled against the petitioner are grave and serious in nature and since they relate to financial irregularities, the respondent Nos.2 to 4 are at liberty to conduct fresh inquiry and pass appropriate orders, in accordance with law. The petitioner is also permitted to submit his representation to the State Government before any final orders are passed. It is needless to state that if respondent Nos.2 to 4 choose to conduct fresh inquiry, the petitioner shall cooperate with respondent Nos.2 to 4.

9. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

SD/-A.V.S. PRASAD
ASSISTANT REGISTRAR
GP
SECTION OFFICER

//TRUE COPY//

To,

1. THE REGISTRAR, APAT., Purani Haweli, Hyderabad.
2. The Secretary (Ser & HRM), General Admn. (SU.I) Department, The Government of Andhra Pradesh, A.P. Secretariat, Hyderabad-500 022.
3. The Secretary, PR&RD Department, The Government of Andhra Pradesh, A.P. Secretariat, Hyderabad-500 022.
4. The Commissioner, Panchayat Raj & Rural Employment, Urdu Galli, Himayatnagar, Hyderabad.
5. One CC to M/s. K. MANI DEEPIKA, Advocate [OPUC]
6. Two CCs to GP FOR SERVICES II, High Court for the State of Telangana. [OUT]
7. Two CD Copies

BN

BS

[Signature]

HIGH COURT

DATED:03/01/2023

ORDER

WP.No.38477 of 2013



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

(10)
MA
28/1/23