

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

**SATURDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO.25731 OF 2012

Between:

B.Ravi, S/o Radhakrishna Rao, Age 47 years, Occ: Junior Assistant in the Court of Addl. Junior Civil Judge, Sathupally, Khammam District.

...PETITIONER

AND

1. The Registrar, (Administration), High Court of Andhra Pradesh, Hyderabad.
2. The District and Sessions Judge, Khammam, Khammam District.

...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 writ or order or direction more particularly one in nature of writ of Certiorari calling for the records relating to Administrative Appeal in proceedings order in D(D) A.No.29/2010, C4(Con), dated 30-08-2011 imposing major punishment of stoppage of one increment with cumulative effect by modifying the order in Dis. No.2323/ADMN/DCK, dated 06-04-2010 of the Disciplinary Authority/district and Sessions Judge, Khammam and to quash the same in the interest of Justice.

Counsel for the Petitioner: SRI SREENIVASA RAO RAVULAPATI

Counsel for the Respondent No.1: SRI Y. RAMA RAO, S.C. FOR TSHC

Counsel for the Respondent No.2: --

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION No.25731 OF 2012

ORDER: *(per the Hon'ble Shri Justice Anil Kumar Jukanti)*

This writ petition is filed seeking to grant the following relief"

"... to issue writ or order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to Administrative Appeal in proceedings Order in D(D)A.No.29/2010, C4(Con), dated 30.08.2011 imposing major punishment of stoppage of one increment with cumulative effect by modifying the order in Dis.No.2323/ADMN/DCK, dated 06.04.2010 of the Disciplinary Authority/District and Sessions Judge, Khammam and to quash the same in the interest of justice and pass such other or further orders as this Hon'ble court deems fit and proper in the circumstances of the case"

2. Heard Mr. R. Sreenivasa Rao, learned counsel for the petitioner, and Mr. Y. Rama Rao, learned Standing Counsel for Telangana State High Court for respondent No.1.

3. The brief facts of the case are:

The petitioner while working as Junior Assistant in the Court of I Additional District Judge, Khammam, fell sick with jaundice and applied for 30 days Half Pay Leave (HPL) on medical grounds from 13.06.2007 to 11.07.2007 and the said leave was sanctioned. Later, the petitioner applied for extension of leave on various occasions till 30.04.2009. He returned to duty and gave joining report on 01.05.2009, was permitted to join duty on 05.05.2009. In all, the petitioner was absent for a period of about 21 months on the ground that his health was not permitting him and it was only upon the improvement of his health condition, he joined duty.

4. A Memo in Dis.No.2699 dated 08.05.2009 was issued for unauthorized absence for the period from 01.01.2008 to 30.04.2009. An explanation was submitted by the petitioner on 14.05.2009 stating that due to jaundice and skin allergy, he had to go on leave. Departmental enquiry

was initiated vide proceedings in order Dis.No.3687/PR No.80/2009/ADM/DCK dated 24.06.2009 under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short, 'the CCA Rules'), statement of Articles of Charge framed was served on the petitioner. Written statement was submitted on 04.07.2009. Not satisfied with the written statement, a regular departmental enquiry was conducted. The Enquiry Officer submitted the enquiry report dated 11.12.2009 by recording a finding that charged employee is found guilty for the charge. A final show cause notice was issued on 19.12.2009 along with the copy of the enquiry report, explanation dated 31.12.2009 was submitted. Not satisfied with the explanation, the Disciplinary Authority issued proceedings in order Dis. No.2323/ADM/DCK dated 06.04.2010 imposing punishment of withholding two increments with cumulative effect and treating the period of absence from 01.01.2008 to 30.04.2009 as leave on loss of pay and the said period not to be counted as service for any

purposes, after considering the totality of the facts and circumstances and the nature of violation committed by the charged officer. Questioning the order of Disciplinary Authority, an administrative appeal was preferred and the said appeal was partly allowed vide order in D(D)A.No.29/2010,C.4 (Con.) dated 30.08.2011 modifying the punishment to that of stoppage of one increment with cumulative effect by setting aside the further order not to count the said absence period as service for any purpose. The said order of the appellate authority is under challenge.

5. It is submitted by learned counsel for the petitioner that the charge framed is vague. The grounds on which the charge is framed are not served and the charge do not disclose any material importance to attribute misconduct, carelessness, negligence, dislocation of work and dereliction of duties and that the material documents marked as Exs.P1 to P29 are not furnished, which is mandatory and thus the enquiry and proceedings issued are null and void.

That the procedure adopted by the Enquiry Officer is contrary to Rules and violation of principles of natural justice. It is submitted that the Enquiry Officer has not appreciated the evidence in proper perspective and the findings of Enquiry Officer were shocking and have resulted in miscarriage of justice. It is further submitted that the Disciplinary Authority has not properly scrutinized the report of the Enquiry Officer but mechanically accepted the report and imposed a major punishment and thus has erred on facts and in law.

6. It is further submitted that the appellate authority has not considered the procedural irregularities pointed out in the order of the Disciplinary Authority, which has resulted in failure of justice. The order of appellate authority is a non speaking order and the appellate authority failed to appreciate the errors committed by the Disciplinary Authority. The punishment of stoppage of one increment with cumulative effect is disproportionate to the gravity of

charges and hence, the order of the appellate authority be set aside.

7. Learned counsel for the respondents submitted that the writ petitioner has filed leave applications, which were rejected as no satisfactory evidence was adduced in support of his ill health and that he was unable to attend his duties over a period of 21 months. That he had opted not to receive the leave rejection notices sent to him to his address for the reasons best known to him. It is submitted that the petitioner failed to turn out for duties which is unauthorized absence and a wilful lapse on his part in absconding from official duties.

8. It is submitted that departmental enquiry was ordered calling for written statement in defense duly supplying the material along with statement of Articles of Charge. The Disciplinary Authority framed the Articles of Charge and the enquiry authority conducted enquiry on the basis of charge framed. It is contended that PWs.1 and 2 have

categorically stated about petitioner's unauthorized absence for more than 21 months. That the entire enquiry was conducted in accordance with the rules and the Disciplinary Authority after considering the report of the enquiry officer and the material on record had imposed the punishment.

9. It is further submitted that the appellate authority after perusing the record held that there were no procedural irregularities and that the reasons for such long leave were not convincing. But, however, held that the punishment was excessive and reduced the same, hence there are no irregularities as contended and interference is not necessitated.

10. Heard both the counsels, perused the record. Petitioner absented for duties for a period of 21 months, it is gross dereliction of duties by any standards, unbecoming of an employee of judicial department. Disciplinary Authority imposed a higher punishment, the

appellate authority after considering the entire material on record and the enquiry report reduced the punishment to that of stoppage of one increment with cumulative effect by holding that the punishment imposed by Disciplinary Authority was excessive. We do not find any infirmity in the order of the appellate authority and no grounds are made out for interference. We confirm the punishment imposed by the appellate authority.

11. For the foregoing reasons, the writ petition is devoid of merits and is liable to be dismissed. Accordingly, the writ petition is dismissed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

SD/- T. JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI SREENIVASA RAO RAVULAPATI, Advocate [OPUC]
2. One CC to SRI Y. RAMA RAO, S.C. for TSHC [OPUC]
3. Two CD Copies

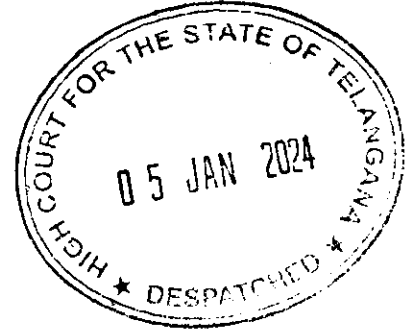
MP

GJP

4/12/18

HIGH COURT

DATED:16/12/2023



ORDER

WP.No.25731 of 2012

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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30/12/23
HVA