

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

MONDAY, THE NINTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION NO: 39608 OF 2016

Between:

T Ravinder Reddy, S/o. T.Satyanarayana Reddy, Aged 57 years, Occ Director (Finance) (FAC), Hyderabad Metropolitan Water Supply and Sewerage Board (HMWSSB), R/o. Hyderabad, Telangana

...PETITIONER

AND

1. State of Telangana, Municipal Administration and Urban Development (Vig.II) Department, Telangana Secretariat, Hyderabad Rep. by its Special Chief Secretary.
2. Hyderabad Metropolitan Water Supply and Sewerage Board, (HMWSSB), Administrative Office Buildings, Khairatabad, Hyderabad rep. by its Managing Director
3. The Chief Vigilance Commissioner,, Government of Telangana, Secretariat, Hyderabad
4. Telangana State Public Service Commission (TSPSC), Prathibha Bhavan, M.J.Road, Nampally, Hyderabad 500001, Rep. by its Secretary.

...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 Mandamus or any other appropriate writ to (i) declare the Memo No.6535/Vig-11(2)/2014, dated - 07.09.2016 issued by the 1st respondent in rejecting petitioner appeal dated - 19.11.2014, mechanically, only on the ground of being time barred as illegal, unjust and arbitrary and for a consequential direction to set-aside the same with a (ii) direction to the 1st respondent to entertain petitioner appeal on merits and (iii) set-aside the punishment of withholding of (5) increments with cumulative effect imposed on the petitioner and for consequential relief

I.A. NO: 1 OF 2016(WPMP. NO: 48806 OF 2016)

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 Memo No.6535/Vig-11(2)/2014, dated : 07.09.2016 with further direction to the 1st Respondent to entertain the appeal dated : 19.11.2014 preferred by the petitioner afresh and on merits without reference to the delay

Counsel for the Petitioner: SRI P. GOVIND REDDY

Counsel for Respondent Nos. 1 & 3: GP FOR SERVICES I

Counsel for Respondent No. 2: SRI G. NARENDER REDDY

Counsel for Respondent No. 4: SRI M. RAM GOPAL RAO

The Court made the following: ORDER

HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.39608 of 2016

ORDER:

This writ petition is filed seeking following relief:

“...to issue a writ order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ to i declare the Memo No 6535/Vig112/2014 dated 07 09 2016 issued by the 1st respondent in rejecting petitioner appeal dated 19 11 2014 mechanically only on the ground of being time barred as illegal unjust and arbitrary and for a consequential direction to setaside the same with a ii direction to the 1st respondent to entertain petitioner appeal on merits and iii setaside the punishment of withholding of 5 increments with cumulative effect imposed on the petitioner and for consequential relief...”

2. Heard Sri P.Govind Reddy, learned counsel for the petitioner and learned Government Pleader for Services – III appearing for respondent Nos.1 to 3, Sri M. Ram Gopal Rao, learned counsel appearing on behalf of respondent No.4, Sri G.Narender Reddy, learned Standing Counsel appearing for respondent No.2.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Finance Manager on 05.10.1989 in respondent No.2 Corporation. Thereafter, he was re-designated as Deputy General Manager in the year 1992. The petitioner was posted as General Manager in July, 2000 on

Full Additional Charge (FAC). Subsequently, he was promoted as General Manger (Finance) in the month of March, 2005 thereafter, he was appointed as Chief General Manager (Finance) on FAC November, 2012. Thereafter, he was posted as Director (Finance) w.e.f., 14.10.2014 of FAC. He rendered 27 years of service in the respondent Corporation and retired from services on attaining the age of superannuation in the month of January 2017.

3.1 He further submits that while working as General Manager (Finance) he was placed under suspension in the month of October, 2007 on the allegation that during the period from 2006-07 to 16.07.2009, the petitioner failed to exercise proper control and shown slack supervision over the staff working under his control and due to the same an amount of Rs.1,28,92,356/-, misappropriated and issued charge memo on 30.11.2009 and similar allegations were made against few other officials also. Pursuant to the same, the petitioner submitted detailed explanation denying the charges leveled against him. Being not satisfied with the same, respondent No.2 ordered regular enquiry by appointing enquiry officer. Basing on the enquiry report, the disciplinary authority imposed punishment

of withholding of five(5) annual grade increments with cumulative effect *vide* G.O.Rt.No.1265 dated 21.09.2012. Aggrieved by the same, petitioner filed appeal on 19.11.2014, respondent No.1 without giving any reasons rejected the appeal by its order dated 04.03.2013 and the same was communicated to the petitioner on 09.04.2013.

3.2 He further submits that the petitioner submitted detailed representation on 19.11.2014 to respondent No.1 requesting them to reconsider the punishment imposed against him. Pursuant to the same, respondent No.1 issued letter dated 28.11.2014 by enclosing the copy of the representation submitted by the petitioner to respondent No.2 directing them to submit detailed report. Accordingly, respondent No.2 submitted report dated 16.01.2016, to respondent No.1 requesting to take a lenient view since it was a supervisory lapse on the part of the petitioner. Respondent No.1 without considering the representation submitted by the petitioner and also views submitted by respondent No.2 issued impugned memo on 07.09.2016, without giving any reasons on the sole ground that appeal submitted by the petitioner is time barred and the same is contrary to law as the petitioner has not filed

appeal but only submitted a representation to reconsider his claim.

4. *Per contra*, learned Assistant Government Pleader submits that respondent No.1 after conducting detailed enquiry and after following the due procedure under law passed order *vide* G.O.Rt.No.1265 dated 21.09.2012, imposing the punishment of withholding five annual grade increments with cumulative effect against the petitioner. Respondent No.1 considered the appeal submitted by the petitioner and rejected the same on 04.03.2013 and after lapse of more than one year he submitted another appeal on 19.11.2014 and respondent No.1 rightly rejected the same by its impugned memo dated 07.09.2016 and the same is in accordance with law.

5. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it is undisputed fact that respondent No.1 issued impugned punishment order against the petitioner through G.O.Rt.No.1265, dated 21.09.2012 imposing penalty of withholding of five annual grade increments with cumulative effect. Thereafter, the petitioner submitted a representation on 17.12.2012, before respondent No.1 and the said representation

was treated as appeal and passed order on 04.03.2013, which reads as follows:

"It is to informed that Government after careful examination of the matter, Government hereby reject the appeal petitions of Sri T.Ravinder Reddy, General Manager(Finance) and Sri B. Satyanandam, General Manager(Finance), as there are no new grounds for reconsideration of their case."

6. After going through the above said order, it reveals that respondent No.1 without giving any notice and opportunity to the petitioner rejected the appeal without giving any reasons. It further appears from the record that the petitioner submitted representation on 19.11.2014 to respondent No.1 requesting to reconsider the punishment imposed against him. After receiving the said representation, respondent No.1 issued Memo dated 28.11.2014, directing the respondent No.2 to submit remarks by enclosing a copy of the representation of the petitioner. Pursuant to the same, respondent No.2 submitted remarks/recommendations which read as follows:

2. In this connection, the matter has been reviewed de novo, and it is brought to the notice of the Government that the allegations raised against him mainly focused upon his supervisory lapse. In his appeal dated 02.12.2015, he put forth his contention that his supervisory lapse attributed to him is of 'general supervision' at fifth level of hierarchy and sought for a fresh review by Government. He has also brought to notice that he had rendered dedicated service for over 26 years in the Board and is on the verge of retirement (January 2017) and in view of his proven track of performance he

has also been kept as I/c Director (Finance) of the Board with effect from 14.10.2014 and is rendering commendable service as on date.

3. In view of his appeal, it is submitted that since it is a supervisory lapse on his part, the Government is requested to take view and consider his plea.

7. Respondent No.1 without giving any opportunity to the petitioner and also without taking into consideration the remarks submitted by respondent No.2, passed the impugned order on the sole ground that the appeal filed by the petitioner is time barred. Admittedly, the petitioner has not filed any appeal invoking the provisions of Rule 35 or 38 of Rules and question of filing appeal before same authority i.e., respondent No.1 does not arise. The petitioner submitted a representation requesting respondent No.1 to reconsider the punishment imposed against the petitioner on humanitarian grounds and the same is disproportionate and respondent No.1 while receiving the said representation directed respondent No.2 to submit remarks and after receiving the remarks from respondent No.2, without considering the same and without giving any opportunity to the petitioner, passed the impugned order on 07.09.2016 and the same is clear violation of principles of natural justice.

8. It is very much relevant to place on record that the

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Hon'ble Supreme Court in ***S.N. Mukherjee v. Union of India***¹ held that administrative action must be supported by reasons. Respondent No.1 while exercising the administrative/quasi judicial powers ought to have given reasons while rejecting claim of the petitioner.

9. For the foregoing reasons, the impugned order passed by respondent No.1 dated 07.09.2016 is set aside and respondent No.1 is directed to reconsider the representation submitted by the petitioner on 19.11.2014 and pass appropriate orders, in accordance with law, after giving opportunity to the petitioner including personal hearing within a period of two (2) months from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of.
No costs.

Miscellaneous applications, pending if any, shall stand closed.

1990 AIR 1984

//TRUE COPY//

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Special Chief Secretary, State of Telangana, Municipal Administration and Urban Development (Vig.II) Department, Telangana Secretariat, Hyderabad.
2. One CC to Sri P Govind Reddy Advocate [OPUC]
3. Two CCs to GP For Services, High Court for the State of Telangana. [OUT]
4. One CC to M. Ram Gopal Rao, Advocate(OPUC)
5. One CC to Sri G. Narendra Reddy, Advocate(OPUC)
6. Two CD Copies

MBC
GJP

Pmc.

HIGH COURT

DATED:09/10/2023



ORDER

WP.No.39608 of 2016

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

(a)ma.
6/11/23.