

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

**WEDNESDAY, THE EIGHTEENTH 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: 22505 OF 2004

Between:

Marahamarath Shahkhan, S/o.Sri Rahaman Sham Khan, aged 54 years, Muslim,
Senior Inspector of Co-operative Societies, (Under orders of dismissal) R/o.H.No.22-
1-519/A, Sultan Pura, Noor Khan Bazar, Hyderabad.

...PETITIONER

AND

1. The Principal Secretary to Government, Agriculture & Co-operative
Department, Secretarial, Hyderabad – 22.
2. The Registrar of Co-operative Societies, Andhra Pradesh, M.J.Road,
Hyderabad-500001.
3. The Additional Registrar-I, Office of the Registrar of Co-operative societies,
Andhra Pradesh, M.J.Road, Hyderabad-500001.

...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 of certiorary, or any other appropriate writ, order or
direction, quashing the order dated: 28-4-2003 of the A.P. Administrative
Tribunal, Hyderabad passed in O.A.No.2324 of 2001 and allow the O.A.as
prayed therein.

I.A.NO:1 OF 2018

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
permit the petitioner to amend the writ affidavit by including paragraphs 10(a)
and 13(a) as described in paragraph 5 of this affidavit, and treat them as part of
parcel of the writ affidavit filed along with the writ petition.

Counsel for the Petitioner : SRI.N.BHARAT BABU, ADV FOR SRI.GANGAIAH NAIDU

Counsel for the Respondents : GP FOR SERVICES - III

The Court made the following ORDER

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

Writ Petition No.22505 of 2004

ORDER : *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

This Writ Petition is filed by the petitioner under Article-226 of the Constitution of India seeking a 'Writ of Certiorari' by calling for records relating to the order passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal'), Hyderabad in O.A.No.2324 of 2004, dated 28.04.2003 and to quash the same.

2. Heard Mr. Gangaiah Naidu learned Senior Counsel for petitioner and learned Government Pleader for Services-III, for respondents.

3. Learned counsel for the petitioner contended that the petitioner was initially appointed as Lower Divisional Clerk in the department of Rural Water Supply in the year 1970, later transferred to Co-operative Department as a Junior Assistant in 1976, thereafter rendering the considerable length of service, he was promoted as Senior-Inspector in 1978 and

while the petitioner was working as Senior-Inspector at Jagityal, he was transferred and posted in the office of Registrar Co-operative Society, Hyderabad. The disciplinary authority has initiated the disciplinary proceedings against the petitioner and 4 others staff members alleging that the petitioner and 4 other staff members were involved in misappropriating a sum of Rs.1,94,094/- while he was working at Jagityal as Senior-Inspector. Learned counsel for the petitioner had further contended that the respondents have also initiated the criminal proceedings by the very same set of allegations by filing C.C.No.317 of 1993 and the petitioner was acquitted by the Competent Criminal Court vide judgment dated 20.09.2000. Learned counsel for the petitioner had further contended that no notices were served on the petitioner by the Enquiry Officer nor by the disciplinary authority directing the petitioner to participate in the enquiry. It was further stated that the respondents have published the notice of enquiry in the Gazette on 25.09.1997 and even before publishing notice in the Gazette the Enquiry

Officer has submitted an enquiry report holding that the charges levelled against the petitioner were held to be proved.

4. The petitioner had further contended that the enquiry officer has conducted the exparte enquiry without serving any notice on the petitioner and enquiry officer mechanically found the charge levelled against the petitioner was held to be proved. However, in respect of poor employees, the respondents have let off them imposing a minor penalty and whereas the petitioner was inflicted with the punishment of dismissal vide orders, dated 03.09.1998. Learned counsel for the petitioner had further contended that the respondents have imposed a major penalty of dismissal on the petitioner without serving Enquiry Officer's report. Aggrieved by the orders of dismissal, the petitioner has approached the Tribunal by filing O.A.No.2324 of 2001 and the Tribunal vide orders, dated 28.04.2003 was pleased to dismiss the O.A without appreciating any of the contentions raised by

the petitioner. Learned counsel for the petitioner had submitted that the disciplinary proceedings were initiated against the 5 individuals and in respect of Sri M. Sudershanam and Sri T.Muralidhar Raju, the respondents have imposed a punishment of stoppage of one increment without cumulative effect and in respect of Sri G.Raju Narsaiah and Sri G. Shankaraiah, the respondents have dropped the disciplinary proceedings. Learned counsel for the petitioner had further contended that the respondents cannot selectively impose major penalty on the petitioner and let off the other workers who were also involved in the said incident. Therefore, appropriate orders be passed in the writ petition by setting aside the orders passed by the Tribunal in O.A.No.2324 of 2001, dated 28.04.2003 and also orders of dismissal dated 03.09.1998.

5. On the other hand, learned counsel for the respondents contended that the Tribunal has considered the contentions of the petitioner and came

to a conclusion that no prejudice would be caused to the petitioner. Learned counsel for the respondents had further contended that if enquiry officer's report is not furnished to the petitioner, then he should have raised the objection to the Show cause notice which was issued to the petitioner before imposing the punishment of dismissal. The petitioner has not pleaded for not furnishing enquiry officer's report before inflicting punishment orders of dismissal. Therefore, the Tribunal was justified in dismissing the O.A. Moreover, the charges levelled against the petitioner were held to be proved in an exparte enquiry. Several, opportunities were given to the petitioner to participate in the enquiry, but he has not participated in the enquiry. Therefore, the Enquiry officer has conducted a detailed enquiry even in the absence of petitioner and came to a conclusion that the charge levelled against the petitioner was held to be proved. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the charge levelled against the petitioner was held to be proved in enquiry and the respondents have rightly imposed a punishment of dismissal from service on the petitioner. This Court is not inclined to interfere with the orders passed by the Tribunal. However, during the course of hearing, it was brought to the notice of this Court that the petitioner is bed ridden and is not in a position to sustain himself.

7. Therefore this Court deems it fit to dispose of the writ petition by directing the petitioner to submit an application to the respondents under Rule 40 of the Telangana State Revised Pension Rules, 1980 seeking claim for grant of compassionate allowance within two (2) weeks from today and upon such application being received, the respondents shall consider the same and pass appropriate orders, by duly taking into account the fact that the petitioner is bed ridden. In respect of the Tribunal's judgment is concerned, we are not

inclined to interfere with the order of the Tribunal and the same is confirmed by this Court.

8. With these observations, the Writ Petition is disposed of. No costs.

9. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

Sd/-G.SIREESHA
ASSISTANT REGISTRAR

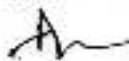
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SECTION OFFICER

To

1. The Principal Secretary to Government, Agriculture & Co-operative Department, Secretariat, Hyderabad - 22.
2. The Registrar of Co-operative Societies, Andhra Pradesh, M.J.Road, Hyderabad-500001.
3. The Additional Registrar-I, Office of the Registrar of Co-operative societies, Andhra Pradesh, M.J.Road, Hyderabad-500001.
4. Two CCs to GP FOR SERVICES-III, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to SRI.GANGAIAH NAIDU, Advocate [OPUC]
6. Two CD Copies
7. One spare copy

S.A



HIGH COURT

DATED:18/01/2023

ORDER

WP.No.22505 of 2004



**DISPOSING OF THE W.P
WITHOUT COSTS.**

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MA
3/2/23