

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

**WEDNESDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

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

THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION NO: 37251 OF 2013

Between:

P. Raja Reddy, S/o. Venkat Narsaiah, Aged about 67 years, Superintendent I/c, Mandal Parishad Development Officer (Retd), M.P. Mutharam Mandal, R/o. H.No. 10-1-215, Karimnagar, Karimnagar District.

.....PETITIONER

AND

1. The State of Telangana, rep by its Principal Secretary to Government, Panchayat Raj and Rural Development Department, Secretariat, Hyderabad.
2. The Commissioner of Panchayat Raj and Rural, Employment, State of Telangana, Himayathnagar, Hyderabad.
3. The District Collector, (PW), Karimnagar, Karimnagar District.
4. The Zilla Parishad, Karimnagar District rep. by the Chief Executive Officer, Karimnagar.
5. The A.P. Administrative Tribunal, rep. by its Registrar, Purana Haveli, Hyderabad.

(Cause Title is amended as per Court Order dated 12-12-2014 in WPMP.No.47299 of 2014)

.....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 an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to and connected with the order dated 20-11-2013 passed in O.A.No.8768 of 2010 with VMA No.1071/2011 by the A.P. Admn. Tribunal, Hyderabad together with the

impugned G.O.Ms.No.391, Pachayat Raj and Rural Development (Vig.III- A) Department, dated 23-11-2010 issued by the 1st respondent and quash or setaside the same as being erroneous, incorrect, arbitrary in violation of principles of natural justice and contrary to the provisions of Rule 20 and 21 of the APCS (CC&A) Rules, 1991 and direct the respondents 1 to 4 to release full pensionary benefits due to the petitioner with an interest of 18% per annum till the date of actual payment.

Counsel for the Petitioner : SRI POLALI VENKATESH

Counsel for the Respondent Nos.1 to 4 : GP FOR SERVICES - II

Counsel for the Respondent No.5 : ---

The Court made the following ORDER

**THE HON'BLE SHRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION No.37251 OF 2013

ORDER: (per AKS,J)

This Writ Petition is filed aggrieved by the order, dated 20.11.2013, passed in O.A.No.8768 of 2010 by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal').

2. Heard Sri Polali Venkatesh, learned counsel for the petitioner and the learned Government Pleader for Services-II appearing for the contesting respondent Nos.1 to 4.

3. Learned counsel for the petitioner had contended that the petitioner was working as a Superintendent and he was kept as In-charge Mandal Parishad Development Officer (MPDO) at Mandal Parishad Mahamutharam, Karimnagar District. Alleging that the petitioner was involved in misappropriation of huge quantity of rice distributed under Food for Work Programme (FFWP) and consequent to the same, the State has suffered loss, the disciplinary authority issued Charge Memo, dated 09.01.2003, to the petitioner. In all, three article of charges were framed against the petitioner and the petitioner has submitted a detailed explanation denying the charges levelled against him. Thereafter,

the disciplinary authority has conducted a detailed enquiry and the Enquiry Officer has submitted the enquiry report on 23.03.2003 holding that the charges levelled against the petitioner are not proved. Thereafter, the petitioner has retired from service on 30.06.2003 on attaining the age of superannuation.

4. Learned counsel for the petitioner had further contended that though the petitioner has retired from service, the contesting respondents have not concluded the disciplinary proceedings initiated against the petitioner. In those set of circumstances, the petitioner has approached the Tribunal by filing O.A.No.3400 of 2004 seeking to direct the respondents therein to settle his pensionary benefits and also pass final orders on the disciplinary proceedings, which are pending against him. The Tribunal, *vide* order, dated 20.02.2006, was pleased to dispose of the said O.A. by directing the respondents therein to pass appropriate orders in pursuance of the Charge Memo, dated 09.01.2003, and conclude the disciplinary proceedings. Learned counsel further contended that in spite of the said direction given by the Tribunal, the contesting respondents have not concluded the disciplinary proceedings initiated against the petitioner. In those set of circumstances, the petitioner was constrained to file C.A.No.562 of 2006 before the Tribunal and only thereafter, the respondent-State

has issued show-cause notice *vide* Memo, dated 05.02.2007, disagreeing with the findings of the Enquiry Officer based upon certain proceedings, which were referred to in the said show-cause notice. The said proceedings were admittedly of the years 2003, 2005 and 2006 and they were issued after submission of Enquiry Officer's report, dated 23.03.2003. Learned counsel further contended that the events which took place after submission of report by the Enquiry Officer cannot be taken as grounds to disagree with the findings of the Enquiry Officer. If the respondent-State is of the view that the enquiry was not properly conducted, then the respondent-State ought to have directed to conduct *de novo* enquiry, but without conducting any such fresh enquiry, the respondent-State has disagreed with the findings of the Enquiry Officer, wherein the Enquiry Officer has categorically held that the charges levelled against the petitioner are not proved.

5. Learned counsel further contended that the petitioner has submitted a detailed explanation to the disagreement Memo on 30.04.2007 and the respondent-State without considering the explanation and objections raised by the petitioner, has imposed punishment of 100% cut in pension and gratuity permanently under Rule 9 of the Revised Pension Rules, 1980, besides recovery of loss caused to the Government i.e. Rs.1,32,71,511/-, *vide*

G.O.Ms.No.391, dated 23.11.2010. Aggrieved by the same, the petitioner once again approached the Tribunal by filing the subject O.A.No.8768 of 2010 and the Tribunal, *vide* impugned order, dated 20.11.2013, was pleased to dismiss the subject O.A. Aggrieved by the same, the present Writ Petition is filed.

6. Learned counsel for the petitioner had further contended that a perusal of G.O.Ms.No.391, dated 23.11.2010, would reveal that no reasons were assigned by the respondent-State while imposing the punishment, except stating that the respondent-State has considered the material on record and the explanation offered by the petitioner. Learned counsel further contended that the loss caused to the respondent-State was also not properly assessed. The Enquiry Officer has also not dealt with the loss caused to the respondent-State. It is also not clear from where the respondent-State has come up with such a figure. A perusal of the disagreement Memo would make it very clear that the proceedings referred to therein were issued subsequent to the Enquiry Officer's report. Therefore, the Enquiry Officer could not have visualized those proceedings at the time of conducting enquiry and submitting enquiry report. In such an event, the respondent-State ought to have directed for *de novo* enquiry and it could not have disagreed with the findings of the Enquiry Officer based upon the proceedings

said to have been emanated after submission of Enquiry Officer's report. Further, no opportunity was given to the petitioner to deal with the documents, which were referred to in the disagreement Memo, thereby violating the principles of natural justice. Therefore, G.O.Ms.No.391, dated 23.11.2010, issued by the respondent-State, imposing punishment of 100% cut in pension and gratuity permanently against the petitioner, is totally without application of mind and contrary to the governing Rules, as no opportunity was given to the petitioner to submit his explanation in relation to the proceedings, which are said to have been taken as basis for disagreeing with the findings of the Enquiry Officer. If only those proceedings were made available in the enquiry, the petitioner could have dealt with those proceedings. Admittedly, the punishment of 100% cut in pension and gratuity permanently imposed on the petitioner is shockingly disproportionate to the charges levelled against him and the same is liable to be set aside.

7. Learned counsel for the petitioner had further contended that there is no allegation of misappropriation against the petitioner. The contention of the respondent-State is that the MPDO was empowered to sanction works under Food for Work Programme prior to 02.11.2001 and after 02.11.2001, the MPDO is not competent to sanction the works and that out of 112 works, 89

works were sanctioned by the petitioner after 02.11.2001. Admittedly, a perusal of the record discloses that many of the works allotted by the petitioner under Food for Work Programme were prior to 02.11.2001, which would mean that the petitioner has not violated any of the guidelines framed by the State Government.

8. Learned counsel for the petitioner had further contended that the case of the petitioner was referred to Public Service Commission before inflicting punishment and the Public Service Commission *vide* proceedings, dated 12.11.2010, has opined that the punishment of 100% cut in pension and gratuity permanently imposed on the petitioner is disproportionate to the gravity of charges levelled against him and that the petitioner alone cannot be held responsible for the excess rice being distributed under Food for Work Programme. Learned counsel further contended that contrary to the advice of the Public Service Commission, the State Government has imposed punishment of 100% cut in pension and gratuity permanently on the petitioner. On this ground also, the punishment imposed by the State Government is liable to be set aside. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order, dated 20.11.2013, and also G.O.Ms.No.391, dated 23.11.2010, imposing punishment of 100% cut in pension and gratuity permanently, and allow the Writ Petition

and further direct the contesting respondents to release the pension and pensionary benefits of the petitioner, as the petitioner is now aged about 78 years and it is becoming difficult for him to sustain without pension and pensionary benefits.

9. Learned Government Pleader for Services-II appearing for the contesting respondents had contended that the respondent-State has every right to disagree with the findings of the Enquiry Officer. The respondent-State has rightly issued show-cause notice *vide* Memo, dated 05.02.2007, and disagreed with the findings of the Enquiry Officer. An opportunity was given to the petitioner to submit his explanation and only after the petitioner submitted his detailed explanation, the respondent-State, considering the entire material and the explanation submitted by the petitioner, imposed punishment of 100% cut in pension and gratuity permanently on the petitioner. The said punishment is not shockingly disproportionate and it is commensurate to the charges levelled against the petitioner. Therefore, the Tribunal was justified in dismissing the subject O.A. Hence, there are no merits in the Writ Petition and the same is liable to be dismissed.

10. This Court, having considered the rival submissions made by the learned counsel for both the parties, is of the considered view

that in spite of the fact that the Enquiry Officer has submitted the enquiry report way-back on 23.03.2003 and the Tribunal has directed the State Government *vide* order, dated 20.02.2006, passed in O.A.No.3400 of 2004, to conclude the disciplinary proceedings, the State Government has not concluded the disciplinary proceedings initiated against the petitioner and has disagreed with the findings of the Enquiry Officer *vide* Memo, dated 05.02.2007. A perusal of the said Memo, dated 05.02.2007, would disclose that the State Government has disagreed with the findings of the Enquiry Officer based upon the Final Report of the Chief Executive Officer, Zilla Parishad, Karimnagar, dated Nil, 2003; proceedings of the Commissioner, PR & RE, Hyderabad, dated 27.02.2006; and the proceedings of District Collector, Karimnagar, dated 24.04.2006. A perusal of the said proceedings would disclose that they are all issued subsequent to the Enquiry Officer's report, dated 23.03.2003, which would mean that the said proceedings were not part of the enquiry and holding the petitioner as guilty based upon such proceedings amounts to violation of principles of natural justice. Based upon the events which took place after submission of Enquiry Officer's report, the State Government could not have disagreed with the findings of the Enquiry Officer and issued show-cause notice. At best, the State Government could

have ordered *de novo* enquiry. If the said proceedings were placed before the Enquiry Officer, the petitioner could have defended and rebutted his case based upon those proceedings. Therefore, the State Government is not justified in disagreeing with the findings of the Enquiry Officer based upon the proceedings, which emanated after submission of report by the Enquiry Officer. It is a clear violation of principles of natural justice. Further, a perusal of G.O.Ms.No.391, dated 23.11.2010, would make it very clear that no reasons were assigned by the State Government before imposing the punishment of 100% cut in pension and gratuity permanently, except stating that the State Government has considered the material on record and also the explanation submitted by the petitioner, which indicates that the State Government has imposed the punishment without application of mind.

11. A perusal of the said G.O. further discloses that the Public Service Commission *vide* proceedings, dated 12.11.2010, has opined that the petitioner alone cannot be held responsible for disbursing excess rice and that the punishment of 100% cut in pension and gratuity permanently is also on higher side and accordingly, advised the State Government to impose proportionate punishment and reduce it to the nearest reality. The State Government has not even followed the advice given by the Public

Service Commission. Further, the Enquiry Officer has submitted the enquiry report on 23.03.2003 and nearly after more than four years, the State Government has made an attempt to disagree with the findings of the Enquiry Officer, that too, based upon the events that took place after submission of Enquiry Officer's report and after filing C.A.No.562 of 2006 before the Tribunal. This itself is in violation of principles of natural justice. The State Government could have disagreed with the findings of the Enquiry Officer within a reasonable period of time, but it could not have delayed, more so, in a case where the employee has retired. This action of the State Government is also found fault. Therefore, for the reasons stated above, we are of the view that the punishment imposed on the petitioner *vide* G.O.Ms.No.391, dated 23.11.2010, is liable to be set aside, as it is violative of principles of natural justice and the punishment imposed is shockingly disproportionate to the charges levelled against the petitioner, as opined by the Public Service Commission.

12. Accordingly, the Writ Petition is allowed and the impugned order, dated 20.11.2013, passed in O.A.No.8768 of 2010 by the Tribunal and G.O.Ms.No.391, dated 23.11.2010, issued by the State Government are set aside and the matter is remanded to the State Government to reconsider the entire case of the petitioner, by duly

taking into account the fact that the punishment of 100% cut in pension and gratuity permanently imposed on the petitioner is shockingly disproportionate to the charges levelled against him, as opined by the Public Service Commission, and the observations made by this Court that the disagreement with the findings of the Enquiry Officer *vide* Memo, dated 05.02.2007, is violative of principles of natural justice, as the events that took place after submission of Enquiry Officer's report are taken into consideration for disagreeing with the findings of the Enquiry Officer, and pass appropriate orders, in accordance with law, within a reasonable period of time, preferably, within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

That Rule Nisi has been absolute as above.

Witness the Hon'ble the Chief Justice AKOK ARADHE, on this Wednesday, the Eighth day of November, Two Thousand and Twenty three.

SD/-K. SREERAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary to Government, Panchayat Raj and Rural Development Department, Secretariat, State of Telangana at Hyderabad.
2. The Commissioner of Panchayat Raj and Rural, Employment, State of Telangana at Hyderabad.
3. The District Collector, (PW), Karimnagar, Karimnagar District.
4. The Chief Executive Officer, Zilla Parishad, Karimnagar District, Karimnagar.
5. The Registrar, A.P. Administrative Tribunal, Purana Haveli, Hyderabad.
6. Two CCs to GP For Services- II, High Court for the State of Telangana at Hyderabad. [OUT]
7. One CC to Sri Polali Venkatesh, Advocate [OPUC]
8. Two CD Copies

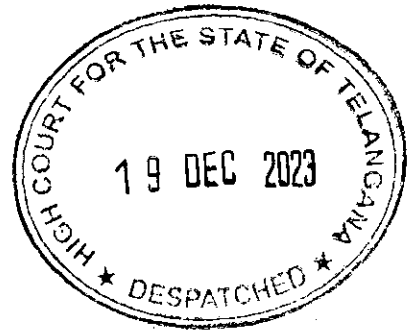
SA
RS

HIGH COURT

DATED:08/11/2023

ORDER

WP.No.37251 of 2013



**ALLOWING THE W.P
WITHOUT COSTS.**

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[Signature]

14/12/2023