

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

THURSDAY ,THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT PETITION NO: 17359 OF 2016

Between:

1. The Union Of India, rep by its Secretary, Department of Posts, Sanchar Bhavan, 20, Ashok Road, New Delhi - 110 001
2. The Chief Postmaster General, A.P Circle, Dak Sadan, Abids, Hyderabad
3. The Superintendent of Post Offices, Adilabad Division, Adilabad - 504 001

...PETITIONER

AND

1. B. Santenna , BPM(Removed) R/o Bazarhatnoor S/o Mallanna, a/w Boath SO Adilabad District - 504 304.
2. Central Administrative Tribunal, Hyderabad Bench, HACA Bhavan, Hyderabad Rep by its Registrar.

...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 order or direction more particularly one in the nature of Writ of Certiorari, calling for the records pertaining to order dated 20.01.2016 in O.A No. 1148 of 2013 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same as illegal, arbitrary, unjust and contrary to law

I.A. NO: 1 OF 2016(WPMP. NO: 21355 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 operation of the order dated 20/1/2016 in OA No.1148 of 2013 passed by the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad pending disposal of the Writ Petition

**Counsel for the Petitioner: SRI. GADI PRAVEEN KUMAR,
DY.SOLICITOR GENERAL OF INDIA**

Counsel for the Respondent No.1: M/s. K. LAHARIKA

Counsel for the Respondent No.2:--

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT PETITION No.17359 OF 2016

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

This Writ Petition is filed aggrieved by the order, dated 20.01.2016, passed in O.A.No.1148 of 2013 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal').

2. Heard the learned Deputy Solicitor General of India appearing for the petitioners and Ms. K. Laharika, learned *Amicus Curiae* appointed by the Court on behalf of respondent No.1.
3. Learned Deputy Solicitor General of India appearing for the petitioners had contended that respondent No.1 was working as Branch Post Master, DOC Sevak Services. While he was working at Bazarhathnoor Branch Post Office during the period from 12.05.1987 to 10.07.2003, he has committed fraud and misappropriated certain amounts. The disciplinary authority, construing the same as misconduct, initiated criminal as well as departmental proceedings against respondent No.1 and after conducting a detailed inquiry, the Inquiry Officer submitted Inquiry Report on 08.08.2005 holding that the charges levelled against respondent No.1 were not proved. But, the disciplinary authority has disagreed with the findings of the

Inquiry Officer and issued disagreement note on 30.11.2005. Respondent No.1 has submitted his objections to the said disagreement note and after considering the objections submitted by respondent No.1, the disciplinary authority has imposed major penalty of removal from service on respondent No.1 *vide* proceedings, dated 31.01.2006, though respondent No.1 was acquitted of the criminal charges levelled against him by the competent criminal Court *vide* judgment, dated 27.10.2009. Thereafter, respondent No.1 preferred an appeal to the appellate authority and the appellate authority has rejected the same *vide* proceedings, dated 29.01.2010. Aggrieved by the order of removal imposed by the disciplinary authority, as confirmed by the appellate authority, respondent No.1 approached the Tribunal by filing the subject O.A. and the Tribunal *vide* impugned order, dated 20.01.2016, was pleased to allow the subject O.A. by setting aside the order of removal, as confirmed by the appellate authority, and directed the petitioners to reinstate respondent No.1 into service, however, without back-wages or monetary benefits, without appreciating any of the contentions raised by the petitioners.

4. Learned Deputy Solicitor General of India appearing for the petitioners had further contended that when the disciplinary authority has come to a conclusion that the charges levelled against

respondent No.1 were held to be proved in the form of disagreement note, the Tribunal ought not to have interfered with the removal order, dated 31.01.2006. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order, dated 20.01.2016, and allow the Writ Petition.

5. On the other hand, learned counsel for respondent No.1 had contended that the Inquiry Officer has conducted a detailed inquiry and submitted report holding that the charges levelled against respondent No.1 were not proved. The witnesses have not supported the charges levelled against respondent No.1. Merely the witnesses have not supported the case of the disciplinary authority, the disciplinary authority could not have disagreed with the findings of the Inquiry Officer. If the disciplinary authority is not satisfied with the Inquiry Officer's report, it could have ordered for *de novo* inquiry. No reasons were assigned as to why the disciplinary authority has disagreed with the findings of the Inquiry Officer. There was no material before the Inquiry Officer so as to come to a conclusion that the charges levelled against respondent No.1 were proved. Therefore, the Inquiry Officer has rightly submitted report holding that the charges were not proved. Just because some of the witnesses have turned hostile, the disciplinary authority could not have disagreed with the findings of the Inquiry Officer. A perusal of

the disagreement note issued by the disciplinary authority would reveal that the disciplinary authority was finding fault with the Inquiry Officer in not examining the case thoroughly and observed that if the witnesses disputed their signatures, then the Inquiry Officer should have referred the matter to the Government Examiner. The disciplinary authority is trying to find fault with the report of the Inquiry Officer, but there was no material before the Inquiry Officer to come to a conclusion that the charges levelled against respondent No.1 were proved. Therefore, the Tribunal was justified in interfering with the order of removal and rightly directed the petitioners to reinstate respondent No.1 into service, as respondent No.1 was acquitted of the criminal charges by the competent criminal Court. The charges levelled against respondent No.1 are not sustainable in view of the Inquiry Officer's Report, dated 08.08.2005. 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 learned counsel for the parties, is of the considered view that the Tribunal was justified in interfering with the order of removal, dated 31.01.2006, on the ground that respondent No.1 was acquitted of the charges levelled against him by the competent criminal Court. The Inquiry Officer also held that the charges levelled against

respondent No.1 were not proved. If the disciplinary authority is not satisfied with the Inquiry Officer's Report, it could have ordered for *de novo*/fresh enquiry instead of coming to a conclusion that the charges levelled against respondent No.1 were proved. There was no material before the Inquiry Officer so as to come to a conclusion that the charges levelled against respondent No.1 were proved. In the absence of any material before the Inquiry Officer, the disciplinary authority could not have disagreed with the findings of the Inquiry Officer. Therefore, this Court is not inclined to interfere with the impugned order, dated 20.01.2016, passed by the Tribunal.

7. Accordingly, the Writ Petition is dismissed. However, it is made clear that it is always open for the petitioners to conduct *de novo* enquiry and pass appropriate orders, in accordance with law. There shall be no order as to costs.

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

//TRUE COPY//

SD/-N. SRIHARI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Registrar, Central Administrative Tribunal, Hyderabad Bench, HACA Bhavan, Hyderabad
2. One CC to SRI. GADI PRAVEEN KUMAR, DY. SOLICITOR GENERAL OF INDIA [OPUC]
3. One CC to M/s. K. LAHARIKA, Advocate [OPUC]
4. Two CD Copies
B M
GJP



HIGH COURT

DATED:08/02/2024

ORDER

WP.No.17359 of 2016



DISMISSING THE WRIT PETITION WITHOUT COSTS

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