

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

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

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

WRIT PETITION NO: 38882 OF 2014

Between:

G.Srinivasulu, S/o. Krishna Murthy, 38 years, Assistant Engineer, (Operation),
Telangana State Southern Power Distribution Company Limited (TSSPDCL),
Shadnagar Town Station, Shadnagar Sub Station, Mahabubnagar Circle ,
Telangana State.

...PETITIONER

AND

1. The Southern Power Distribution Company of Telangana Limited, Mint Compound, Hyderabad, rep. by its Chairman and Managing Director.
2. The State of Telangana, Energy Department, rep. by its Special Chief Secretary, Telangana Secretariat, Hyderabad.

...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 Mandamus to declare the action of the respondents in issuing the impugned Memo No.CGM(HRD)/GM (IR.LandAdm) AS (DC)/PO (DC -II)/132-C4/2010-21, dated 07-07-2014, treating the period of suspension undergone by the petitioner as not on duty inspite of giving clean acquittal by the 1st Additional Special Judge for SPE and ACB cases-cum-Vth Additional Chief Judge, City Civil Court, Hyderabad, vide judgement dated 23-09-2013 against the ACB trap case in Calender Case No.17 of 2011, as highly illegal, unconstitutional, against the principles of natural justice, equity and fair play and without justifiable reasons and prays to set aside the impugned Memo No.CGM(HRD)/GM (IR.LandAdm) AS (DC)/PO (DC-II)/132-C4/2010-21, dated 07-07-2014, with a direction to treat the period of suspension as on duty by releasing the entire consequential monetary benefits and other benefits due to the petitioner and pass.

I.A. NO: 1 OF 2014(WPMP. NO: 48712 OF 2014)

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 impugned Memo No. CGM(HRD)/GM(IR.L&Adm)AS(DC)/PO(DC-II)/132-C4/2010-21, dated 07-07-2014, with a direction to treat the period of suspension undergone by the petitioner from 27-04-2010 to 08-09-2011 as on duty, pending order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: SRI. CH. GANESH

**Counsel for the Respondent No. 1: SRI R. VINOD REDDY
(SC FOR TSTRANSCO)**

Counsel for the Respondent No.2: GP FOR ENERGY

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.38882 of 2014

ORDER:

The only grievance of petitioner is non-treating the period of suspension as 'on duty'.

2. Heard both sides and perused the record.

3. Petitioner is working as Assistant Engineer in Telangana State Southern Power Distribution Company Limited (TSSPDCL) from 2004. On 27.04.2010, ACB has laid a trap and arrested the petitioner on the ground that he demanded bribe from a farmer for doing official favour. Pursuant to the same, a criminal case was registered against him and he was placed under suspension on 27.04.2010. During the pendency of the criminal case, petitioner was re-instated into service on 09.09.2011. Subsequently, the competent Criminal Court acquitted the petitioner of the charges levelled against him *vide* judgment, dated 23.09.2013. Case of the petitioner is that he was made a scape-goat for the acts of some unscrupulous persons and in fact, no official favour was pending with him as on the date of the trap. It is his contention that since the competent Criminal Court has given clean acquittal, the out of duty period from 27.04.2010 to 08.09.2011 shall be treated as 'on duty'. After his acquittal from the criminal case, the petitioner has requested the respondents to

consider his case for treating the period of suspension 'as on duty', however, *vide* Memo, dated 07.07.2014, the period of suspension is treated as 'not on duty'. Hence, this writ petition.

4. Respondents have filed counter affidavit stating that while the petitioner was working as Assistant Engineer at Choutuppal, he was caught red-handed by ACB officials at his office when he demanded and accepted an amount of Rs.5,000-00 as bribe from the complainant for giving power supply by erecting additional transformer to the fields of the complainant. The petitioner was arrested on 27.04.2010 and a criminal case has been registered against him under the provisions of 'Prevention of Corruption Act', 1988. Accordingly, the petitioner was placed under suspension with effect from 27.04.2010 and after obtaining necessary sanction, he was prosecuted in the Criminal Court. Pending criminal proceedings, the petitioner was re-instated into service and accordingly he reported to duty on 09.09.2011 and was posted at Shadnagar. Subsequently, the petitioner was acquitted by the Court on 23.09.2013, upon which, petitioner has requested to treat his period of suspension as 'on duty'. It is their contention that since the petitioner was acquitted by extending benefit of doubt, he is not entitled to seek the relief of treating the period of suspension as 'on duty'. Accordingly, they prayed for dismissal of the writ petition.

5. The admitted facts of the case are that the petitioner was trapped by ACB on the ground that he demanded and accepted an amount of Rs.5,000-00 from a farmer for providing power supply to his fields. The petitioner was under suspension right from the date of his arrest till the date of re-instatement i.e. from 27.04.2010 to 08.09.2011. The case of the petitioner is that since he was acquitted by competent Criminal Court, the period of suspension shall be treated as 'on duty', whereas, the respondents contend that since the petitioner was acquitted by extending benefit of doubt, it was not a clean acquittal and hence, they have not treated the period of suspension as 'on duty'.

6. In view of the rival contentions of the parties, it is necessary to go through the judgment of the ACB Court which is placed on record. The main witnesses examined before the Court are PWs.1 and 2. The Court has recorded its findings that both PWs.1 and 2 have nowhere deposed in their entire evidence about the alleged demand of accused/petitioner for payment of bribe and PW.1 especially did not utter even slightest incriminating evidence that the accused had accepted bribe from him. It is also observed in the judgment that the evidence of PWs.1 and 2 has projected the petitioner as a person who refused to accept bribe offered by PWs.1 and 2. The case of the petitioner throughout is that he never accepted any bribe from PW.1,

but PW.1 forcibly put the amount into the pocket of his pants and while he was in confusion, the ACB officials have surrounded him. Keeping in view the defence taken by the petitioner and the evidence of prime witnesses of prosecution i.e. PWs.1 and 2, the ACB Court has opined that the prosecution has miserably failed in placing cogent, convincing, reliable and trustworthy evidence to prove the guilt of the accused/petitioner herein. With such findings, the petitioner has been acquitted. Nowhere in the judgment, it is recorded that the accused/petitioner was extended benefit of doubt, as has been contended by the respondents.

7. Learned Standing Counsel for the respondents has relied on the judgment of Hon'ble Supreme Court in **Krishnakant Raghunath Bibhavnekar v. State of Maharashtra and others**¹, wherein, it is held that the competent authority is empowered to treat suspension period as not spent on duty after following principles of natural justice. There is no dispute with regard to the law laid down by the Hon'ble Supreme Court in the above case, but the said judgment is not applicable to the facts of the case on hand, as in this case, the only basis for denying the benefit of treating the period of suspension as 'on duty' is that the trial Court has acquitted the petitioner by extending benefit of doubt, but in fact, the judgment of the Criminal Court is otherwise, holding that there is no piece of evidence against

¹ (1997) 3 Supreme Court Cases 636

the petitioner so as to convict him and the prosecution has miserably failed to prove the charge against him. Further, the respondents themselves in the counter affidavit, have stated that they have not preferred appeal against the acquittal of petitioner as there are no grounds for filing appeal. Having admitted that there are no merits to prefer appeal against the judgment of ACB Court, it is not open for the respondents to treat the period of suspension on "not on duty". It is further to be noted that the respondents have not initiated any departmental proceedings parallel to the criminal case in the ACB Court, and in view of the same, there are no proceedings pending against the petitioner, therefore, the petitioner is entitled for the relief sought for in the writ petition.

8. Accordingly, the writ petition is allowed setting aside the impugned order, dated 07.07.2014. The respondents are directed to treat the period of suspension from 27.04.2010 to 08.09.2011 as 'on duty' and extend all monetary and other benefits in accordance with rules. No costs.

Pending miscellaneous applications, if any, shall stand closed.

SD/- V. HARI PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman and Managing Director, Southern Power Distribution Company of Telangana Limited, Mint Compound, Hyderabad,
2. The Special Chief Secretary, Energy Department, Telangana Secretariat, Hyderabad.
3. Two CCs to GP FOR ENERGY, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI. CH GANESH, Advocate [OPUC]
5. One CC to SRI. R. VINOD REDDY, (SC FOR TSTRANSCO) [OPUC]
6. Two CD Copies

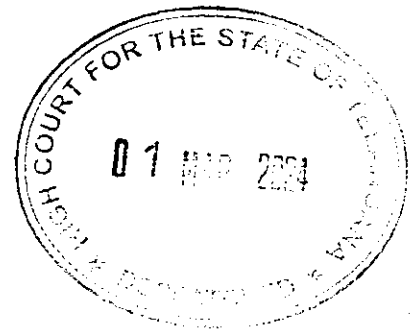
B M
GJP \$

HIGH COURT

DATED:01/02/2024

ORDER

WP.No.38882 of 2014



**ALLOWING THE WRITPETITION
WITHOUT COSTS**

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