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APHC010361082026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3460]
(Special Original Jurisdiction)

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 19362/2026

Between:

1. G. KISHORE, S/O RAMA RAO, AGED ABOUT 37 YEARS. DEPUTY DIRECTOR (ON SUSPENSION), VISAKHAPATNAM PORT AUTHORITY, R/O FLAT NO.301, MW GREENS, YENDADA, VISAKHAPATNAM, ANDHRA PRADESH 530045.

...PETITIONER

AND

1. UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF PORTS, SHIPPING AND WATERWAYS TRANSPORT BHAVAN, NEW DELHI-110001.
2. VISAKHAPATNAM PORT AUTHORITY, REP. BY ITS CHAIRPERSON (DISCIPLINARY AUTHORITY), VISAKHAPATNAM-530035.
3. THE TRAFFIC MANAGER, VISAKHAPATNAM PORT AUTHORITY, VISAKHAPATNAM-530035.
4. CH RAM PRASAD, JOINT DIRECTOR (IN-CHARGE), VISAKHAPATNAM PORT AUTHORITY, AMBEDKAR BHAVAN, PORT AREA, VISAKHAPATNAM -53003

...RESPONDENT(S):

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 Mandamus declaring the action of the respondent No.2 in placing the petitioner under suspension vide proceedings No.QPER/D- Cell/Traffic/GK/26, dated 13.01.2026 and continuing him under suspension vide proceedings No.QPER/D-Cell/Traffic/GK/2026, dated 10.04.2026 for a period of six months, as highly illegal, arbitrary, unjust and violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to reinstate the petitioner into service with all consequential benefits and pass such other orders.

IA NO: 1 OF 2026

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 forthwith direct the respondents to reinstate the petitioner in service by suspending the proceedings Respondent No.2 vide proceedings No. QPER/D-Cell/Traffic/GK/26, of dated consequential proceedings No.QPER/D-Cell/Traffic/GK/ 13.01.2026 and 2026, dated 10.04.2026, and pass

Counsel for the Petitioner:

1. MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1. P SRI RAM
2.

The Court made the following:

Whether the order is :
Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No

HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.19362 of 2026

ORDER:

1. The present Writ Petition is filed questioning the action of Respondent No.2 in placing the Petitioner under suspension *vide* Proceedings No.QPER/D-Cell/Traffic/GK/26, dated 13.01.2026 and continuing him under suspension for a period of six months *vide* Proceedings No.QPER/D.Cell/Traffic/GK/2026, dated 10.04.2026 and to declare the same as illegal and arbitrary.

2. The Petitioner was initially appointed as Assistant Director on 18.04.2017 in Respondent No.2 i.e., Visakhapatnam Port Authority and subsequently promoted as Deputy Director (IT-Wing) on 21.07.2023. While so, the Petitioner was suspended from service *vide* impugned proceedings dated 13.01.2026 in terms of Regulation 7 of the Visakhapatnam Port Employees (Classification, Control & Appeal) Regulations, 1968 and extended on 10.04.2026 for (06) months.

3. In the Affidavit filed in support of the Writ Petition, it is stated that while the Petitioner was working as Deputy Director (I.T. Wing) during November, 2025, a meeting took place among I.T. Wing Officials of the Traffic Department of the Port Authority in which

certain financial deliberations took place. It is stated that during negotiations, the Chief Mechanical Engineer-cum-Joint Director (In-charge) one Ch. Ram Prasad, Senior Deputy Chief Accounts Officer Sri S. Siva Kumar and Deputy Director (IT) i.e., the Petitioner herein, had participated on behalf of Respondent No.2-Port Authority along with three officials of M/s SAP (Systems Application and Products). At that point of time, the Port Authority was due an amount of Rs.14.00 Crores to M/s. SAP and an amount of Rs.3.5 Crores was proposed to be waived by SAP for the un-utilized period of service. While so, the Joint Director (In-charge) Ch. Ram Prasad had prepared a note and proposed for its finalization with regard to payments to be made to SAP contrary to the deliberations and to the detriment of the Respondent No.2.

4. In the subsequent meeting held on 27.11.2025 among Port Officials, the Petitioner brought to the notice of the participants the financial loss of an extent of Rs.2.00 Crores that may be caused to the Port Authority in view of the note of the Joint Director (In-charge) Ch. Ram Prasad. On being informed of the same, the Deputy Chairperson had admonished the Joint Director (In-charge) Sri Ch. Ram Prasad for being negligent while sending financial proposals, causing financial loss to the Port Authority.

5. Thereafter, the file was sent to the Petitioner by the Deputy Chairperson himself through Ch. Ram Prasad, Joint Director (In-charge) to revise the proposals as agreed by the SAP and this led to the transfer of the Petitioner to the Environment Wing, Railways Division of the Traffic Department at Visakhapatnam Port with which the Petitioner has nothing to do either by his academic studies or by his experience. The said order of transfer was made on 02.12.2025 by the Joint Director (In-charge) Ch. Ram Prasad and although the Petitioner holds a Doctorate in Information Technology and Computer Science.

6. It is further stated that there is no post of Deputy Director in the Environment Wing, Railways Division, nor in other Wings of the Traffic Department, except the IT Division. While so, the Petitioner was placed under suspension vindictively on Bhogi day i.e., 13.01.2026.

7. The Petitioner on 07.04.2026 submitted a representation to Respondent No.2 to reinstate him into service and without considering the same, the suspension was further extended by (6) months on 10.04.2026. It is stated that a Charge-Memorandum was issued to the Petitioner on 11.04.2026 and an Enquiry Officer was appointed on 16.06.2026. It is stated that the Charge-Memorandum

lacks *bona fides*. Therefore, the present Writ Petition is filed questioning the order of suspension.

8. In the Counter-Affidavit filed by Respondent No.2, the claim of the Petitioner was denied in totality. It is stated that the attempt to portray the transfer as punitive or as the foundation for the subsequent suspension is baseless, speculative and unsupported by any material on record. It is further stated that the Petitioner's conduct was under question in the past as well, and had earlier attracted administrative and vigilance scrutiny and the Competent Authority *vide* Proceedings dated 18.03.2024, had issued a warning for making derogatory remarks against stakeholders, exhibiting disruptive behavior and misbehaving with the complainant firm over a prolonged period.

9. It is stated that the Petitioner's conduct had previously been found wanting and that his behavior had been the subject of official censure even before the initiation of the present disciplinary proceedings. It is stated that though a meeting was held between Port-Authority and M/s SAP on 06.11.2025, no finalized or formally approved minutes of the meeting are placed on record at the relevant point of time. It is further stated that the subsequent meeting held on 27.11.2025 was part of routine administrative review and

that the Petitioner's attempt to link the administrative decision of his transfer is unsustainable.

10. It is stated that the transfer was effected in accordance with the practice consistently followed by the Visakhapatnam Port Authority of rotating employees, who have completed three years in sensitive posts, in line with the principles contained in the Central Vigilance Commission (CVC) guidelines dated 11.09.2013 to ensure transparency, accountability and good governance. The Petitioner having accepted the transfer cannot turn around and question the same at this length of time.

11. It is stated that six (6) Articles of Charge were framed against the Petitioner in the Charge-Memorandum and the Charges include failure of the Petitioner to safeguard a Performance Bank Guarantee of approximately Rs.3.20 Crores among other Charges. It is stated that the Petitioner failed to exhibit the degree of cooperation expected from a senior officer entrusted with sensitive Government IT systems. Despite repeated written instructions, reminders and memoranda issued by the Competent Authority, the Petitioner had failed to complete the formal handing over of Charge in the prescribed manner and withheld critical administrative credentials, privileged user accounts, passwords, configuration details, technical

documentation and system related information essential for uninterrupted functioning of the Port's Information Technology Infrastructure.

12. It is further stated that the officers entrusted with the management of mission-critical Government IT infrastructure bear a heightened responsibility to ensure continuity of operations, institutional stability and protection of Government assets and Petitioner's deliberate withholding of complete technical control, failure to provide unrestricted administrative access, non-compliance with repeated lawful directions and obstruction in the implementation and maintenance of critical systems exposed the Visakhapatnam Port Authority to serious operational, financial, contractual and cyber security risks. Hence, seeks for dismissal of the Writ Petition.

13. In the Reply-Affidavit filed by the Petitioner, it is stated that the Petitioner had handed over all the updates, position of software related issues, license expiry dates, SAP permissions, passwords, modifications etc., It is further stated that the Petitioner had handed over (i) Physical files, (ii) e-Office files, (iii) IT infrastructure details (iv) Application details (v) Single point contact details of the firms and (vi) Computer System with accessories (Computer System used by the Petitioner in the office) etc.,

14. Heard Sri M. Vijay Kumar, learned Senior Counsel, assisted by Sri Monoj Kumar Bethapudi, learned counsel for the Petitioner and Sri P. Sreeram, learned Standing Counsel for Respondent No.2-Port Authority.

15. The Petitioner was suspended on 13.01.2026 and the same was extended on 10.04.2026 for a further period of (06) months. A Charge-Memorandum was issued to Petitioner on 11.04.2026 and the Articles of Charge were with regard to Willful Non-Handing over of Charge and Credentials, Deliberate Obstruction of Official Work and Non-Cooperation, Failure to Maintain Records, Logs and Standard Operating Procedures, Social Media Misconduct & Insubordination, Delay Processing Pension Arrears and Failure to Renew Bank Guarantee. An Enquiry Officer and Presenting Officer were also appointed on 16.06.2026.

16. Though elaborate pleadings were raised about the vindictiveness of Respondent No.4 against the Petitioner and so on, but the impugned order of suspension and Charge-Memorandum were not issued by the said individual.

17. Be that as it may, the pleadings are all about factual claims venturing into the correctness of the charges in the departmental enquiry, however, the scope of this Court to examine such claims is limited in cases of this nature. The parameters for interference in a case of suspension were explained by the Hon'ble Supreme Court in paragraphs 26 and 27 in ***Union of India v. Ashok Kumar Aggarwal***[1], and the same are extracted below;

> ***"26.*** *The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases, particularly in State of M.P. v. Shardul Singh, P.V. Srinivasa Sastry v. Comptroller & Auditor General, ESI v. T. Abdul Razak, Kusheshwar Dubey v. Bharat Coking Coal Ltd., Delhi Cloth & General Mills Ltd. v. Kushal Bhan, U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan, State of Rajasthan v. B.K. Meena, Prohibition and Excise Deptt. v. L. Srinivasan and Allahabad Bank v. Deepak Kumar Bhola, wherein it has been observed that even if a criminal trial or enquiry takes a long time, it is ordinarily not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking the suspension*

[1] (2013) 16 SCC 147

order, if satisfied that the criminal case pending would be concluded after an unusual delay for no fault of the employee concerned. Where the charges are baseless, mala fide or vindictive and are framed only to keep the delinquent employee out of job, a case for judicial review is made out. ***But in a case where no conclusion can be arrived at without examining the entire record in question and in order that the disciplinary proceedings may continue unhindered the court may not interfere.*** *In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in conclusion of enquiry or trial cannot be a ground for quashing the suspension order, if the charges are grave in nature****. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct in question****.***

27. *Suspension is a device to keep the delinquent out of the mischief range. The purpose is to complete the proceedings unhindered. Suspension is an interim measure in the aid of*

disciplinary proceedings so that the delinquent may not gain custody or control of papers or take any advantage of his position. More so, at this stage, it is not desirable that the court may find out as to which version is true when there are claims and counterclaims..."

18. In the present case, the departmental enquiry cannot be said to be unduly delayed nor can it be said that there is no *prima facie* material. As regards the departmental enquiry and suspension being *mala fide*, no allegations were made against the authority, who issued the Charge Memorandum or the suspension orders. Neither the said individual is a party to the case in personal capacity even to examine the aspect as to whether the Charge Memorandum and suspension orders were issued at the instance of Respondent No.4.

19. For the aforesaid reasons, the Writ Petition is disposed of, leaving it open to the Respondents to examine the requirement to keep the Petitioner under suspension.

20. No order as to costs.

As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 05.10.2026
IS

HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.19362 of 2026

Date: 05.10.2026

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