APHC010585642023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3573]**
(Special Original Jurisdiction)

FRIDAY, THE 9th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 30149/2023

Between:

1. SIRIPURAPU RAJU, S/O.SUNDAR RAO,(LATE) AGE 42 YEARS, RELLI (SC), OCC. SUB-INSPECTOR OF POLICE, NOW ATTACHED TO VISAKHAPATNAM, FORMERLY OF CCS POLICE STATION, VIZIANAGARAM DISTRICT, R/O.K.L.PURAM,VIZIANAGARAM.

...PETITIONER

AND

1. THE GOVERNMENT OF ANDHRA PRDESH, , REP. BY ITS PRINCIPAL SECRETARY, HOME (SERVICE II) DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
2. THE DIRECTOR GENERAL OF POLICE, ANDHRA PRADESH, MANGALAGIRI, GUNTUR DISTRICT.
3. THE DEPUTY INSPECTOR GENERAL OF POLICE, VISAKHAPATNAM RANGE, VISAKHAPATNAM, A.P.
4. THE ASSISTANT SUPERINTENDENT OF POLICE CUMINQUIRY OFFICER, NARSIPATNAM SUB-DIVISION, NARSIPATNAM.

...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 Mandamus declaring the action of the respondents/respondent No.3 in addressing letter to the 2nd respondent vide proceedings C.No.06/0E/PR/2021, dated 25-10-2023 recommending to impose provisional penalty of dismissal from service besides treating the period of suspension from 31-01-2019 (I.e. from the date of his arrest to 13-08-2019) may be treated as Not on duty is proposed against me, inspite of the charges leveled against the petitioner stands NOT PROVED in departmental proceedings

passed by the 4th respondent vide Inquiry Report C.No.01/OE/ASP-NPM/2021 dated 6- 10-2021 submitted to the the 3 respondent and also Criminal Proceedings against the petitioner in C.C.No.554/2020 on the file of the court of the Additional Judicial Magistrate of First Class, Vizianagaram is quashed by the Honourable High Court of A.P., Amaravathi in Crl.P.2797/2021 dated 22-08-2022 is arbitrary, gal, unjust, capricious, whimsical and without authority or jurisdiction and contrary to the basis principles of law and in violation of A.P. C.S.(CCA) Rules, 1991 and 1961 besides in violation of principles of natural justice and fair play and violation of Article 14, 21 and 311(2) of the Constitution of India and consequently forbear the respondents 1 to 3 from passing any order in pursuance of the proceedings dated 25-10-2023 passed by the respondent No.3 pending disposal of the writ petition in the interests of justice and pass such

IA NO: 1 OF 2023

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 may be pleased to stay all further proceedings inpursuance of the impugned proceedings C.No.06/0E/PR/2021, dated 25-10-2023 of the 3rd respondent, including proposed action of imposing penalty of my dismissal from service by the respondents pending disposal of the Writ Petition in the interests of justice and pass such

IA NO: 2 OF 2023

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 pleased to vacate the interim orders of status quo in Writ petition No. 30149 of 2023, dated 24-11-2023 and dismiss the Writ petition and pass

Counsel for the Petitioner:

1. P A SESHU

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following:

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

ORDER:

The Writ Petition is filed for the following relief:

> *"to issue an appropriate writ, order or direction more particularly one in the nature of Mandamus declaring the action of the respondents/respondent No.3 in addressing letter to the 2nd respondent vide proceedings C.No.06/0E/PR/2021, dated 25-10-2023 recommending to impose provisional penalty of dismissal from service besides treating the period of suspension from 31-01-2019 (I.e. from the date of his arrest to 13-08-2019) may be treated as Not on duty is proposed against me, inspite of the charges leveled against the petitioner stands NOT PROVED in departmental proceedings passed by the 4th respondent vide Inquiry Report C.No.01/OE/ASP-NPM/2021 dated 6-10-2021 submitted to the 3rd respondent and also Criminal Proceedings against the petitioner in C.C.No.554/2020 on the file of the court of the Additional Judicial Magistrate of First Class, Vizianagaram is quashed by the Honourable High Court of A.P., Amaravathi in Crl.P.2797/2021 dated 22-08-2022 is arbitrary, gal, unjust, capricious, whimsical and without authority or jurisdiction and contrary to the basis principles of law and in violation of A.P. C.S.(CCA) Rules, 1991 and 1961 besides in violation of principles of natural justice and fair play and violation of Article 14, 21 and 311(2) of the Constitution of India and consequently forbear the respondents 1 to 3 from passing any order in pursuance of the proceedings dated 25-10-2023 passed by the respondent No.3 pending disposal of the writ petition in the interests of justice and pass such…"*

2. Heard Sri Anand Seshu Popuri, learned counsel for the petitioner and Sri K.Varun Shyam Kumar, learned Assistant Government Pleader for Services-I.

3. The grievance of the petitioner is that, in respect of the same incident criminal prosecution as well as disciplinary proceedings were initiated against him. However, the criminal proceedings in C.C.No.554 of 2020 on the file of the learned Additional Judicial First Class Magistrate, Vizianagaram, were quashed by this Court in Crl.P.No.2797 of 2021, wherein the petitioner was arrayed as Accused No. 5 (A5).

4. The respondents have initiated disciplinary proceedings against the petitioner by issuing a charge memo, pursuant to which an enquiry was conducted. The Enquiry Officer, who was appointed for that purpose, submitted a report vide C.No.01/OE/ASP-NPM/2021, dated 06.10.2021,

ultimately holding that the charges were not proved. Upon receipt of the enquiry report, the disciplinary authority, being dissatisfied with the findings recorded therein, issued a dissent memo (note) vide C.No.06/OE/PR/2021, dated 10.11.2021, calling upon the petitioner to submit his further representation, if any, within ten (10) days from the date of receipt of a copy of the said dissent memo.

5. Pursuant thereto, the petitioner submits that he filed a detailed explanation to the dissent memo before the office of the 3rd respondent on 18.11.2021, under due acknowledgement, addressing all the issues involved in the proceedings and ultimately seeking his exoneration from the charges. As there was no response from the 3rd respondent, petitioner submitted a further representation dated 14.08.2023, reiterating his request for the same relief and referring to his earlier representations/replies dated 18.11.2021 and 19.10.2022, seeking the dropping of the charges.

6. While matters stood thus, the 3rd respondent issued the impugned proceedings dated 25.10.2023, proposing the penalty of dismissal from service, as stated above, which are challenged in the present Writ Petition.

7. On a perusal of the provisional order of dismissal forwarded to the Government, it is evident that, though the 3rd respondent referred to Rule 21(5) of the C.C.A. Rules and mentioned that the final written statement of defence of the Government servant was received in the office on 31.03.2022, with the date of the statement itself recorded as ‘Nil’, and there is no specific

reference to the petitioner's representation/reply dated 18.11.2021. Even assuming that the said representation was the same as the final written statement of defence referred to in the impugned proceedings, the absence of a date on the representation does not, by itself, establish that the disciplinary authority had not considered its contents before passing the impugned order. The defence raised by the petitioner in his reply/explanation does not appear to have been dealt with or considered on its merits, except for the general observation that the disciplinary authority was ‘not convinced with the explanation of the Government servant’.

8. The learned Assistant Government Pleader for Services-I, however, drew the attention of this Court to the explanation stated to have been received on 31.03.2022 and submitted that the Government servant (charged officer), as an afterthought and with a mala fide intention to evade the disciplinary proceedings, had requested the Enquiry Officer to examine his wife as a defence witness. Except for referring to the said aspect, the disciplinary authority did not even advert to the other issues raised in the explanation while proposing the major penalty of removal from service. Ultimately, the disciplinary authority merely recorded a general finding that it was “not convinced with the explanation of the Government servant,” without addressing the specific grounds raised by him.

9. Learned Assistant Government Pleader for Services-I submits that if this Court finds any infraction of law and procedural violation at the stage after

issuance of dissent memo and after submission of explanation/reply to the dissent note submitted by the petitioner, the authorities may be directed to resume the proceedings from there. In support of his contentions, he placed reliance on the Judgment of Hon'ble Apex Court in ***Chairman, Life Insurance Corporation of India and others v. A.Masilamani***[1]**,** wherein the relevant para is extracted hereunder:

> *"**16.** It is a settled legal proposition, that once that court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same."*

10. Heard submissions of both the learned counsel. Perused the material on record.

11. As stated above, with regard to the receipt of such explanation submitted by the charged officer/writ petitioner herein is not in dispute as it was submitted to the office of the 3rd respondent on 18.11.2021 under the acknowledgement as per the documents annexed along with the Writ Petition by the Writ Petitioner apart from other representations dated 14.08.2023 and 19.10.2022.

12. As seen from the order dated 25.10.2023, the 3rd respondent having issued the dissent memo as per the procedure provided under C.C.A Rules and having called for explanation of the charged officer and having received of explanation on 18.11.2021 itself had not referred to such an explanation and

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[1] **2012 SCC OnLine SC 961**

has not considered the contents of the explanation which was submitted in detail.

13. However, this Court is not inclined to examine the factual aspects or record any findings with regard to the quashment of the criminal proceedings by this Court, particularly in view of the fact that an independent departmental enquiry was conducted against the petitioner. This Court is also not expressing any opinion as to whether the departmental proceedings and the criminal charges are based on the same set of allegations or identical charges, or whether the evidence placed before the competent criminal court is identical to the evidence adduced before the disciplinary authority, including the witnesses examined in the respective proceedings. These aspects are left open for consideration by the disciplinary authority in accordance with law. As the disciplinary authority failed to duly consider the explanation submitted by the petitioner on 18.11.2021 in response to the dissent memo and passed orders thereon before issuing proposing the provisional penalty under Rule 21(5) of the C.C.A. Rules, the impugned proceedings warrant interference on this ground.

14. In view of the above, this Court is of the considered opinion that the impugned order *vide* C.No.06/OE/PR/2021, dated 25.10.2023 suffers from violation of principles of natural justice and also non-consideration of the reply/explanation submitted by the petitioner to the dissent memo dated 10.11.2021.

15. In view of the submissions made and the findings recorded hereinabove, this Writ Petition is allowed, and the impugned proceedings vide C.No.06/OE/PR/2021, dated 25.10.2023, is hereby set aside. The respondent authorities, more particularly the 3rd respondent, are directed to consider the explanation/reply submitted by the petitioner on 18.11.2021 in response to the dissent memo and pass appropriate orders thereon, in accordance with law, after affording the petitioner an opportunity of personal hearing, having regard to the fact that the proposed penalty is a major penalty of removal from service. The said exercise shall be completed within a period of four (04) months from the date of receipt of a copy of this order. The petitioner shall also cooperate with the 3rd respondent in concluding the proceedings within the aforesaid period. There shall be no order as to costs.

Consequently, miscellaneous petitions if any, shall stand closed.

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JUSTICE BALAJI MEDAMALLI

Dated: 09.10.2026
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THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

Writ Petition No. 30149 of 2023

Date: 09.10.2026

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