HC-KAR

NC: 2026:KHC:59725
WP No. 17067 of 2018

CNR: KAHC010052992018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 17067 OF 2018 (L-TER)

BETWEEN:

SMT SEETHA
W/O. SRI H. MURALIDHAR
AGED ABOUT 60 YEARS
R/AT NO.132, TELECOM LAYOUT
NEAR GANESH TEMPLE
SUNKADAKATTE, BENGALURU - 560091.

…PETITIONER

(BY SRI. L MURALIDHAR PESHWA., ADVOCATE)

AND:

1. THE MANAGEMENT OF KARNATAKA
   POWER TRANSMISSION
   CORPORATION LIMITED
   REP. BY ITS MANAGING DIRECTOR
   HEAD OFFICE: CAUVERY BHAVAN
   K.G. ROAD, BENGALURU - 560009.

2. THE GENERAL MANAGER
   KARNATAKA POWER TRANSMISSION
   CORPORATION LIMITED
   HEAD OFFICE: CAUVERY BHAVAN
   K.G. ROAD, BENGALURU - 560009.

…RESPONDENTS

(BY SRI.H V DEVARAJU, ADVOCATE FOR R1 & R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS PERTAINING TO THE AWARD DATED: 15.5.2017 MADE IN REFERENCE NO.32/2009 ON THE FILE OF

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THE PRESIDING OFFICER, PRINCIPAL LABOUR COURT, BENGALURU VIDE ANNEXURE-L AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. This writ petition is filed under Articles 226 and 227 of the Constitution of India, challenging the award dated 15.05.2017 passed by the Labour Court, Bengaluru, in Reference No.32/2009, whereby the reference has been dismissed.

2. For the sake of convenience, the parties are referred to by their respective rankings before the Labour Court. The petitioner herein is referred to as the First Party, and the respondents are referred to as the Second Party.

3. The brief facts of the case are that the First Party was appointed as a Junior Assistant on compassionate grounds in the Karnataka Power Transmission Corporation Limited (for short, 'KPTCL') w.e.f. 26.09.1980. While she

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was working as an Assistant in the 6th Sub-Division at Sunkadakatte, Bengaluru, certain charges were levelled against her in 2005, alleging that she had remitted an amount lesser than the amount collected, tampered with entries in the counterfoils of challans, committed temporary misappropriation of Rs.1,23,20,665/- and permanent misappropriation of Rs.35,55,805/-. Accordingly, a charge memo dated 03.12.2005 was issued to her. Being dissatisfied with her reply to the charge memo, the disciplinary authority initiated a departmental enquiry. The Enquiry Officer submitted a report based on the Special Audit Report, holding that the charges levelled against her were proved. On the basis of the said report, the disciplinary authority dismissed the First Party from service by order dated 01.09.2007. Aggrieved by the order of dismissal, the First Party raised an industrial dispute, which was referred by the State Government to the Labour Court, Bengaluru, in Reference No.32/2009. The Labour Court, by the impugned award dated 15.05.2017,

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dismissed the reference. Being aggrieved by the said award, the First Party has approached this Court.

4. Learned counsel appearing for the First Party contended that the Labour Court had rightly held that the departmental enquiry conducted by the Second Party was not fair and proper, thereby placing the burden on the management to prove the charges levelled against the First Party. However, while adjudicating the dispute on merits, the Labour Court relied solely on the alleged admission made by the First Party in the apology letter dated 22.06.2005, marked as Ex.M-40, and proceeded to hold that the charges against her stood proved. The First Party had categorically deposed that her signature on Ex.M-40 had been obtained forcibly and that she had admitted to a shortage of only Rs.1,21,878/- upon being persuaded by the officials. Except for Ex.M-40, the Second Party had neither produced any other relevant records nor

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adduced sufficient evidence to establish the alleged misappropriation.

4.1. Learned counsel further contended that the Labour Court had recorded a finding of misappropriation to the tune of more than Rs.35,00,000/- based on the Special Audit Report. Despite a specific direction issued by the Labour Court to produce the relevant records pertaining to the charges levelled against the First Party, the Second Party failed to produce the same. In the absence of such records, the Labour Court was not justified in concluding that the charges against the First Party had been proved.

4.2. Learned counsel further submitted that the evidence adduced on behalf of the Second Party disclosed that the First Party was not solely responsible for the remittance of cash and that two other employees were also facing similar allegations. Nevertheless, the Labour Court erroneously held the First Party alone responsible for the alleged misappropriation. The specific case of the First

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Party was that she had remitted the cash collected at the counter and was unaware of any misappropriation, particularly when the keys to the cash box were also accessible to the other officials. It was contended that the Labour Court had failed to consider these material aspects.

4.3. Lastly, learned counsel submitted that a criminal case in C.C.No.36085/2010 had been registered against the First Party and two other officials on the basis of the same allegations. The witnesses examined in the criminal case were also the witnesses in the departmental proceedings. Subsequently, the First Party and the other officials were acquitted by order dated 03.09.2024. At the time of passing the impugned award, the criminal case was still pending. On these grounds, learned counsel sought to set aside the impugned award and allow the writ petition.

5. Per contra, learned counsel appearing for the Second Party submitted that the First Party had herself admitted

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in writing, through Ex.M-40, that there was a shortage of Rs.1,21,878/-. It was contended that, in view of the said admission regarding the shortage, no further documents were necessary to establish her misconduct. Learned counsel further submitted that the Special Audit Report clearly established misappropriation of more than Rs.35,00,000/- by the First Party and that the examination of the Deputy Collector of Accounts had further substantiated the allegations. It was also contended that the First Party had been acquitted in the criminal case on the benefit of doubt and that such acquittal could not, by itself, invalidate the departmental proceedings. Accordingly, learned counsel sought dismissal of the writ petition.

6. Heard the learned counsel for the parties and perused the writ papers.

7. It is not in dispute that, while the First Party was working as an Assistant in the 6th Sub-Division at

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Sunkadakatte, Bengaluru, a charge memo dated 03.12.2005 was issued to her and two other officials, namely, Sri.M.Devaraj, Accounts Officer, and Sri.Puttaswamy, Assistant Accounts Officer, in connection with the alleged misappropriation of funds. The articles of charge levelled against the First Party and the other two officials, as contained in the charge memo, read as follows:

ARTICLES OF CHARGES

1. You, Smt.Seetha have been working as Assistant (now under suspension) in N-6 Sub-Division, BESCOM, Bangalore from 14.01.2003 to 22.06.2005. Though you were expected to carry out the duties of the General Cashier of the Sub-Division as stipulated in Para 42.01, 42.06, 43.08 (f to i), 44.04, 45.01, 46.03, 50.02, 50.04 to 50.08 of KEB Accounts Manual Volume I and Sl.No.4 under Activity 6: Cash section work of KPTCL Working Instructions Manual Sub Division, You have failed to do so. You have committed the acts of

i) Remitting lesser amount than the actual amount collected and to be remitted into the Bank and tampering the entries made in the counter foil of the challan

ii) Making fictitious entries in the cash book and denomination registers.

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iii) Using bogus pass sheets to support the entries made in respect of remittance.

iv) Temporary misappropriation of Rs.1,23,20,665/- and permanent misappropriation of Rs.35,55,805/-.

v) Not pasting the Counter foil of challans, after remittance in the remittance book.

vi) Not tallying the figures of closing balance of cash in the cash Register and in the denomination register.

vii) Not signing cash book on 15.11.2003, 08.03.2005 and 10.03.2005.

viii) Not signing in the denomination register on 22 days.

The exact dates, reference, quantum of amount in respect of all the acts referred to item (i) to (viii) have been furnished in the Special Audit Report enclosed to this notice.

Your above said acts which are grave in nature are misconduct as per Regulation 3(1) (i), (ii) and (iii) and item no.(i), (vii), (xviii) of Annexure-B read with Regulation 33 of KEB Employees' Service (Conduct) Regulation 1988.

II. You, Sri.N.Devaraj, Accounts Officer, were working as Assistant Accounts Officer (Cash Officer) in N-6 Sub-Division, BESCOM, Bangalore from 01.11.2002 to 07.07.2004. As a cash Officer, you were responsible for carrying out the duties as stipulated in para 50.09 to 51.03 of KEB Accounts Manual volume 1 and Sl.No.4&5 of Activity 6: Cash section work of KPTCL Working Instructions Manual

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Sub- Division. But you have failed to observe the following acts of Smt.Seetha, General Cashier.

i) Remitting lesser amount than the actual amount collected and to be remitted into the bank and tampering the entries made in the counter foil of the challan.

ii) Making fictitious entries of remitance in the cash book and denomination registers.

iii) Using bogus pass sheets to support the entries made in respect of remittance.

iv) Temporary misappropriation and permanent misappropriation of cash.

v) Not pasting the Counter foil of challans, after remittance in the remittance book.

vi) Not tallying the figures of closing balance of cash in the cash Register and in the denomination register.

vii) Not signing cash book on 15.11.2003.

viii) Not signing in the denomination register on 15 days.

The exact dates, reference, quantum of amount in respect of all the acts referred to item (i) to (viii) have been furnished in the Special Audit Report enclosed to this notice.

Your above said failure amounts to misconduct as per Regulation 3(ii) and (iii), 2 and item (viii) of Annexure-B read with Regulation 33 of KEB Employees' Service (Conduct) Regulations 1988.

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III. You, Sri. Puttaswamaiah, Senior Assistant have been working as Cash Officer in N-6 Sub-Division, BESCOM, Bangalore from 08.07.2004 to 22.06.05. As a cash Officer, you were responsible for carrying out the duties as stipulated in para 50.09 to 51.03 of KEB Accounts Manual volume 1 and Sl.No.4&5 of Activity 6: Cash section work of KPTCL Working Instructions Manual Sub Division. But you have failed to observe the following acts of Smt.Seetha, General Cashier, N6 Sub Division, BESCOM, Bangalore.

i) Remitting lesser amount than the actual amount collected and to be remitted into the bank and tampering the entries made in the counter foil of the challan.

ii) Making fictitious entries of remittance in the cash book and denomination registers.

iii) Using bogus pass sheets to support the entries made in respect of remittance.

iv) Temporary misappropriation and permanent misappropriation of cash.

v) Not pasting the Counter foil of challans, after remittance in the remittance book.

vi) Not tallying the figures of closing balance of cash in the cash Register and in the denomination register.

vii) Not signing in the denomination register on 8 days.

viii) Not signing cash book on 08.03.2005 and 10.03.2005.

The exact dates, reference, quantum of amount in respect of all the acts referred to item (i) to (viii)

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have been furnished in the Special Audit Report enclosed to this notice.

Your above said failure amounts to misconduct as per Regulation 3(ii) and (iii), 2 and item (viii) of Annexure-B read with Regulation 33 of KEB Employees' Service (Conduct) Regulations 1988.

8. Being dissatisfied with the reply submitted by the First Party to the charge memo, the Second Party initiated a departmental enquiry. The Enquiry Officer, relying on the Special Audit Report, held the charges levelled against the First Party to be proved. Based on the enquiry report, the disciplinary authority, by order dated 01.09.2007, dismissed the First Party from service. Insofar as the other two officials, namely, Sri M. Devaraj and Sri Puttaswamy, are concerned, minor penalties were imposed. Aggrieved by the order of dismissal, the First Party raised an industrial dispute, which was referred by the State Government to the Labour Court, Bengaluru, in Reference No.32/2009. The reference made reads as under:

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೧. ಆಡಳಿತವರ್ಗದವರಾದ ಮೆಃ ಕರ್ನಾಟಕ ಪವರ್ ಟ್ರಾನ್ಸ್‌ಮಿಷನ್ ಕಾರ್ಪೊರೇಷನ್ ಲಿ; ಕಾವೇರಿ ಭವನ, ಬೆಂಗಳೂರು ಇವರು ಶ್ರೀಮತಿ ಸೀತಾ, ವಯಸ್ಸು 50 ವರ್ಷ, ನಂ.21, ಕೆ.ಎ.ಬಿ. ಕ್ವಾರ್ಟ್ರಸ್, ರಾಜಾಜಿನಗರ, 2ನೇ ಬ್ಲಾಕ್, ಬೆಂಗಳೂರು ಇವರಿಗೆ ಆದೇಶ ಸಂಖ್ಯೆ: ಕವಿಪ್ರನಿನಿ/ಬಿ53/ಬಿ2114536/2005-06 ದಿನಾಂಕ:01-09-2007 ಕೆಲಸದಿಂದ ವಜಾಗೊಳಿಸಿರುವುದು ನ್ಯಾಯಸಮ್ಮತವೇ?

9. On the basis of the pleadings of the parties, the Labour Court, has framed the following issues:

1. *Whether II party management proves that D.E. held against the Ist party was fair, proper and under natural justice?*
2. *whether the Ist party proves that the punishment imposed by the management is harsh, arbitrary and disproportionate to the alleged misconduct?*

Addl. Issue No.1 was treated as preliminary issue

10. To prove the case, First Party has examined herself as WW-1 and marked 17 documents. The Second Party has examined 4 witnesses as MW-1 to 4 and marked 49 documents. After hearing the parties, the Labour Court

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has answered the Reference No.1 in the affirmative, Additional/preliminary issue No.1 in the negative and Reference No.2 as per the final order. Consequently, dismissed the reference.

11. Since there were allegations against the First Party of tampering with ledger entries, she filed an application before the Labour Court seeking production of the ledger and other relevant documents. The Labour Court, by order dated 02.09.2015, directed the Second Party to produce the said documents. However, the documents were not produced. To prove the charges, the Second Party examined its witnesses. MW-1 has categorically stated that all three officials were responsible for handling the cash and that the keys to the cash box were accessible to all three officials. The Labour Court, however, solely on the basis of the admission allegedly made by the First Party in Ex.M-40 that she had not remitted Rs.1,21,878/- to the cash chest, which was found to be short, concluded

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that she had misappropriated the amount. Further, relying on the Special Audit Report, the Labour Court concluded that there was misappropriation of more than Rs.35,00,000/-. The Labour Court has not discussed the evidence of MW-1 to MW-4 in its award. It is also relevant to note that the order of acquittal passed in C.C.No.36085/2010 was not available before the Labour Court, as the criminal case was pending at the time of passing the impugned award.

12. In view of the above facts and circumstances of the case, this Court is of the opinion that the matter requires to be remitted back to the Labour Court to reconsider the matter afresh in accordance with law.

13. Accordingly, the following order:

ORDER

a) The writ petition is allowed.

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b) The impugned award dated 15.05.2017 passed by the Labour Court, Bengaluru, in Reference No.32/2009, is hereby set aside.

c) The matter is remitted to the Labour Court, Bengaluru, for fresh consideration in accordance with law.

d) The parties shall not be permitted to adduce any additional evidence, and the matter shall be decided on the basis of the evidence already available on record.

e) The Labour Court shall reconsider the matter afresh, taking into consideration the observations made hereinabove and the order of acquittal dated 03.09.2024 passed in C.C.No.36085/2010, and shall dispose of the reference within four months from the date of receipt of a copy of this order.

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(H.T. NARENDRA PRASAD)
JUDGE

DM
LIST NO.: 1 SL NO.: 14