HC-KAR

NC: 2026:KHC:59686-DB
WP No. 20648 of 2023

CNR: KAHC010480892023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO. 20648 OF 2023 (S-KSAT)

BETWEEN:

SMT. SAIRA BANU
W/O SRI SYED MUSHTAQ
AGED ABOUT 51 YEARS,
WORKING AS ASSISTANT TEACHER
GOVERNMENT URDU LOWER PRIMARY SCHOOL,
MADIVALA, BANGALURU-68
R/AT NO.180/9, 4TH CROSS, B P ROAD,
BEHIND ANJANEYA TEMPLE,
MADIVALA, BENGALURU-68.

...PETITIONER

(BY SRI. SATEESH N.K., ADV. FOR
SRI SRIKANTH M. P., ADV.)

Digitally signed by NANJUNDACHARI
Location: High Court of Karnataka

AND:

1. STATE OF KARNATAKA
   REP. BY ITS PRINCIPAL SECRETARY,
   PRIMARY AND SECONDARY EDUCATION,
   M S BUILDING
   BENGALURU-560001.

2. THE COMMISSIONER FOR
   PUBLIC INSTRUCTIONS
   PRIMARY AND SECONDARY EDUCATION,
   NEW PUBLIC OFFICES,
   NRUPATHUNGA ROAD, K R CIRCLE
   BANGALORE-560001.

3. THE DIRECTOR OF PUBLIC INSTRUCTIONS
PRIMARY EDUCATION,
NEW PUBLIC OFFICES
NRUPATHUNGA ROAD, K R CIRCLE
BANGALORE-560001.

4. THE DEPUTY DIRECTOR OF
PUBLIC INSTRUCTIONS
KALASIPALYA
BENGALURU SOUTH TALUK
BENGALURU DISTRICT-02.

…RESPONDENTS

(BY SRI. S.C. DESHMUKH, AGA FOR R1-4)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED 23.08.2023 PASSED ON APPLICATION NO.6039/2022 BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BENGALURU VIDE ANNEXURE-C; QUASH THE CHARGE MEMO DATED 25.04.2022 BEARING NO. AA.8/UU.SHI./ DURVARTHANE/DOORU/194/18-19 VIDE ANNEXURE-A36 AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The petitioner, unsuccessful applicant before the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') is before this Court questioning order dated 23.08.2023 in Application No.6039/2022

whereunder the petitioner's prayer to quash articles of charge dated 25.04.2022 (Annexure-A36) is rejected.

2. Heard learned counsel Sri.Sateesh.N.K., for Sri.Srikanth.M.P., learned counsel for petitioner and learned Additional Government Advocate Sri.S.C.Deshmukh for respondents. Perused the entire writ petition papers.

3. The petitioner is working as Assistant Teacher in the Department of Primary and Secondary Education. The petitioner was issued with articles of charge dated 25.04.2022 (Annexure-A36) alleging unauthorized absence and not reporting to the duty on revocation of suspension. It is alleged that the petitioner has remained unauthorized absence from 23.03.2019 till the date of issuance of articles of charge i.e. 25.04.2022. The said articles of charge was the subject matter of above stated Application No.6039/2022 and the Tribunal under impugned order dismissed the Application of the petitioner

observing that the Tribunal cannot assume the role of the Enquiry Officer to ascertain the truth and placing reliance on the judgments of the Hon'ble Apex Court, was of the opinion that at the threshold, it could not interfere with the articles of charge. Questioning the said order of the Tribunal as well as the articles of charge the petitioner is before this Court in this writ petition.

4. Learned counsel for the petitioner urged the same grounds which were urged before the Tribunal. Learned counsel would submit that the articles of charges are issued only to cover up the lapses of the officers and further he submits that the authorities could not have insisted the petitioner to report at Kaggalipura, contrary to the directions issued by the Government. Learned counsel would submit that the petitioner is not responsible for her absence from duty at the Lower Primary School, Kaggalipura. Thus, he would pray for allowing the writ petition.

5. Learned Additional Government Advocate Sri.S.C.Deshmukh would support the order passed by the Tribunal and would further submit that the petitioner would get every opportunity before the Enquiry Officer and it is open for the petitioner to place all material before the Enquiry Officer. Thus, he would pray for dismissal of the writ petition.

6. On hearing the learned counsel appearing for the parties and on perusal of the entire writ petition paper, we are not inclined to interfere with the impugned order passed by the Tribunal as well as impugned articles of charge dated 25.04.2022.

7. A perusal of articles of charge, it is seen that allegation against the petitioner is that she has remained unauthorised absence since 23.05.2019 till the date of issuance of articles of charge dated 25.04.2022. It is specifically alleged that the petitioner has failed to report

to duty at the place of posting on revocation of suspension. It is for the Enquiry Officer to find out as to whether the petitioner remained unauthorized absence or whether as contended by the petitioner, the respondent-authorities could not have insisted the petitioner to report to duty at Lower Primary school, Kaggalipura. It is a factual finding which has to be recorded by the Enquiry Officer based on the material that would be placed before the Enquiry Officer. At the threshold, the Court cannot sit and give finding on the factual issues.

8. As contended by the learned Additional Government Advocate, the petitioner would get every opportunity before the Enquiry Officer and it is open for the parties to place on record the material before the Enquiry Officer.

9. The Hon'ble High Court in the case of ***SECRETARY, MINISTRY OF DEFENCE AND OTHERS VS. PRABHASH CHANDRA MIRDHA [(2012) 11 SCC 565]***, has

observed that the law does not permit quashing of charge sheet in a routine manner in a departmental proceedings. The relevant portions at paragraphs 8, 10 to 12 reads as follows:

> *"**8.** The law does not permit quashing of charge-sheet in a routine manner. In case the delinquent employee has any grievance in respect of the charge-sheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon. In case the charge-sheet is challenged before a court/tribunal on the ground of delay in initiation of disciplinary proceedings or delay in concluding the proceedings, the court/tribunal may quash the charge-sheet after considering the gravity of the charge and all relevant factors involved in the case weighing all the facts both for and against the delinquent employee and must reach the conclusion which is just and proper in the circumstance. (Vide State of M.P. v. Bani Singh [1990 Supp SCC 738 : 1991 SCC (L&S) 638 : (1991) 16 ATC 514] , State of Punjab v. Chaman Lal Goyal [(1995) 2 SCC 570 : 1995 SCC (L&S) 541 : (1995) 29 ATC 546] , Registrar, Coop. Societies v. Sachindra Nath Pandey [(1995) 3 SCC 134 : 1995 SCC (L&S) 648 : (1995) 29 ATC*

538] , Union of India v. Ashok Kacker [1995 Supp (1) SCC 180 : 1995 SCC (L&S) 374 : (1995) 29 ATC 145] , Prohibition & Excise Deptt. v. L. Srinivasan [(1996) 3 SCC 157 : 1996 SCC (L&S) 686 : (1996) 33 ATC 745] , State of A.P. v. N. Radhakishan [(1998) 4 SCC 154 : 1998 SCC (L&S) 1044 : AIR 1998 SC 1833] , Food Corporation of India v. V.P. Bhatia [(1998) 9 SCC 131 : 1998 SCC (L&S) 466] , Supt. of Police v. T. Natarajan [1999 SCC (L&S) 646] , M.V. Bijlani v. Union of India [(2006) 5 SCC 88 : 2006 SCC (L&S) 919 : AIR 2006 SC 3475] , P.D. Agrawal v. SBI [(2006) 8 SCC 776 : (2007) 1 SCC (L&S) 43] and Govt. of A.P. v. V. Appala Swamy [(2007) 14 SCC 49 : (2009) 1 SCC (L&S) 440] .)

10. *Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it*

may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court. (Vide State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 : (1987) 3 ATC 319 : AIR 1987 SC 943] , Bihar State Housing Board v. Ramesh Kumar Singh [(1996) 1 SCC 327] , Ulagappa v. Commr. [(2001) 10 SCC 639 : AIR 2000 SC 3603 (2)] , Special Director v. Mohd. Ghulam Ghouse [(2004) 3 SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] and Union of India v. Kunisetty Satyanarayana [(2006) 12 SCC 28 : (2007) 2 SCC (L&S) 304] .)

11. *In State of Orissa v. Sangram Keshari Misra [(2010) 13 SCC 311 : (2011) 1 SCC (L&S) 380] (SCC pp. 315-16, para 10) this Court held that normally a charge-sheet is not quashed prior to the conducting of the enquiry on the ground that the facts stated in the charge are erroneous for the reason that to determine correctness or truth of the charge is the function of the disciplinary authority. (See also Union of India v. Upendra Singh [(1994) 3 SCC 357 : 1994 SCC (L&S) 768 : (1994) 27 ATC 200] .)*

12. *Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge*

as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings."

10. There is no merit in the writ petition and accordingly writ petition stands ***rejected***.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 4