

**HIGH COURT FOR THE STATE OF TELANGANA**

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**WRIT PETITION (TR) NO.3465 OF 2017**

Between :

C.Ramesh s/o. Digamber,  
Aged 55 years, Regional Transport Officer,  
West Zone, Mehdipatnam, Hyderabad.

...Petitioner

and

The Gov.of Telangana, rep. by its  
Prl. Secretary to Government,  
Transport, Roads & Buildings Dept.,  
Secretariat, Hyderabad and another.

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 21.03.2024

**HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

1. Whether Reporters of Local Newspapers : Yes  
may be allowed to see the Judgment ?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals
3. Whether his lordship wish to see the : Yes  
fair copy of the Judgment ?

**\*HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

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.... Respondents

!Counsel for the petitioner

: Sri Srinivasa Baba

Counsel for the respondents

: Govt.Pleader for Transport  
for respondents

<Gist :

>Head Note:

? Cases referred:

(1991) 3 SCC 219

**HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

**WRIT PETITION (TR) NO.3465 of 2017**

**ORDER:**

The present writ petition has been filed seeking the following prayer:

“.. to set aside the show-cause notice No.14530/V3/2/2003-1, dated 23.08.2007 and the proceedings No.14530/V3/2003-1, dated 03.12.2008 of the 2<sup>nd</sup> respondent imposing the punishment, rejection of appeal and review applications of the applicant by the 1<sup>st</sup> respondent vide Memo No.2027/Vig.III/2/2009-2, dated 08.03.2013, Memo No.13890/Vig.III/2/2013, dated 21.05.2014 and Memo No.1519/Tr(S&V)/2/2004, dated 22.01.2015, as illegal, arbitrary, violation of Articles 14, 16 and 21 of the Constitution of India apart from violation of principles of natural justice.”

2. The brief facts leading to filing of the present writ petition are as under:

(i) The applicant was originally appointed as Assistant Motor Vehicle Inspector in the year 1985 and promoted as Motor Vehicle Inspector and Regional Transport Officer. While the applicant was working as Motor Vehicle Inspector at Bahadurpura, south Zone, Hyderabad, the ACB authorities

conducted surprise check at that office on 24.11.2013 under the impression that certain irregularities were being committed; that during the inspection, Smt. M.Satyaveni, Superintendent, Smt.K.Kalavathi, Junior Assistant and a private person Sri G.Sathish were found present in the Help Desk counter with unaccounted cash of Rs.630/-, Rs.450/- and Rs.1390/-, respectively; that the private person confessed during the surprise check that he was collecting illegal amounts on behalf of the petitioner and Sri A.Lakshminarayana Reddy, Transport Constable.

(ii) Accordingly, charge memo was issued against the petitioner on 15.06.2004 as under:

“That Sri Chowla Ramesh s/o. Digamber, joined in Government Service on 27.09.1985 and while working as Motor Vehicle Inspector in RTA Office, South Zone, Hyderabad during the period from 04.01.2003 to 24.11.2003, he has committed grave misconduct and gross negligence to duty inasmuch as he found collecting illegal gratification by employing a private person by name Sri G.Sathish and failed to maintain absolute integrity in violation of APCS (Conduct) Rules, 1964.

Thus, Sri Chowla Ramesh, by his above mentioned acts has exhibited lack of integrity, devotion to duty and

conduct unbecoming of a Government servant thereby contravened Rule 3(1) & (2) of the APCS (Conduct) Rules, 1964.”

(iii) Immediately after the alleged incident, petitioner was suspended from service in November, 2004. In response to the said charge memo, petitioner submitted his explanation. Not satisfied with the explanation submitted by petitioner, the respondents appointed the Joint Transport Commissioner as enquiry officer on 10.03.2005. After conducting enquiry, the enquiry officer submitted detailed enquiry report on 25.03.2006 holding that the charge levelled against the petitioner is not proved.

(iv) After careful examination of the enquiry report, the 2<sup>nd</sup> respondent being the disciplinary authority accepted the findings of the enquiry officer and sent a proposal to the Government for advise of the vigilance commissioner in vigilance matters vide letter dated 04.12.2006.

(v) The Government vide Memo No.16372/Vig.III(2)/2003-5, dated 13.08.2007, while disagreeing with the findings of the enquiry officer, requested the Transport Commissioner to differ

with the findings of the enquiry officer and communicate the disagreement factors to the petitioner. Accordingly, copy of the enquiry report along with disagreement factors were communicated to the petitioner to submit his further representation vide Memo No.14530/V3/2003-1, dated 23.08.2007 of the Transport Commissioner. The petitioner submitted his explanation dated 21.01.2008, even though the respondents have not furnished the relevant documents sought by him.

(vi) Without considering the explanation submitted by the petitioner, punishment was imposed against the petitioner 'withholding of two increments with cumulative effect' vide proceedings No.14530/V3/2003-1, dated 03.12.2008. Aggrieved thereby, petitioner preferred appeal before the 1<sup>st</sup> respondent on 17.02.2009, but the same was rejected by the 1<sup>st</sup> respondent vide Memo No.2027/Vig.III/2/2009-2, dated 08.03.2013. Petitioner preferred review application and the same was rejected by the 1<sup>st</sup> respondent vide Memo No.13890/Vig.III/2/2013, dated 21.05.2014. Hence, the petitioner filed the O.A.No.1583 of 2015 before the A.P.Administrative Tribunal, Hyderabad (APAT).

3. Consequent to abolition of APAT, the above O.A.No.1583 of 2015 was transferred to this Court and the same is renumbered as WP (TR) No.3465 of 2017.

4. The respondents filed counter and contended that as the petitioner was involved in collecting illegal gratification by employing a private person by name G.Satish, the disciplinary authority, on due consideration of the enquiry report and the explanation submitted by the petitioner, had rightly awarded punishment of withholding of two increments with cumulative effect and the appeal and revision filed by the petitioner were rightly rejected by the competent authority and petitioner failed to make out any case to interfere with the impugned Memos and finally, prayed to dismiss the writ petition.

5. Heard learned counsel Sri Srinivasa Baba for the petitioner and the learned Government Pleader for Transport appearing for respondents. Perused the record.

6. Learned counsel for the petitioner submitted that once the charges levelled against the petitioner are not proved through

enquiry conducted by the enquiry officer and after accepting the findings of the enquiry officer by the disciplinary authority, it is not open to the respondent authorities to send the proposals to the Government for consultation of Vigilance Commissioner's advice and imposing punishment on the advice and dictate of vigilance commissioner is illegal and against the law. He further submitted that imposing of punishment mechanically by accepting the vigilance commissioner's advise amounts to non-application of mind and hence, the punishment imposed on the petitioner has been vitiated on this ground alone and entire proceedings initiated against the petitioner are liable to be set aside. He finally prayed to set aside the impugned Memos by allowing the writ petition.

7. In support of the said contention, learned counsel for petitioner placed reliance on the decision of Hon'ble Supreme Court in **Nagaraj Shivarao Karjagi and Syndicate Bank, Head Office, Manipal and another**<sup>1</sup>.

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<sup>1</sup> (1991) 3 SCC 219



8. *Per contra*, the learned Government Pleader for respondents submitted that the Government is empowered to take advise of the vigilance commissioner, when the disciplinary authority was not satisfied with the enquiry report submitted by the enquiry officer. In the present case, on taking advise from the vigilance commissioner, the disciplinary authority had imposed punishment against the petitioner after giving sufficient opportunity to the petitioner and there is no illegality in the order of the disciplinary authority in imposing the punishment against the petitioner. Therefore, the relief sought for by the applicant cannot be granted and prayed to dismiss the writ petition as it is devoid of merits.

**Consideration:**

9. It is not in dispute that charge was framed against the petitioner on 15.06.2004 under Rule 20 of A.P.Civil Services (CC&A) Rules, 1991 alleging that he has committed grave misconduct and exhibited gross negligence to duty inasmuch as he was found collecting illegal gratification of employing a private person by name G.Satish and failed to maintain absolute

integrity in violation of APCS (Conduct) Rules, 1964 (rules, 1964) and thereby his act has exhibited lack of integrity, devotion to duty and thereby contravened Rule 3(1)&(2) of the Rules, 1964.

10. After conducting enquiry, the enquiry officer submitted his report on 19.06.2006 holding that the charges framed against the petitioner are not proved. The Disciplinary Authority accepted the same, however, sent proposals to the government for advise of the advisory body in vigilance matters vide letter dated 04.12.2006. The Government vide Memo dated 13.08.2007, while disagreeing with the findings of the enquiry officer, held charges as proved and requested the Transport Commissioner to differ with the findings of the enquiry officer and the disagreement factors were communicated to the petitioner and petitioner was further directed to submit representation. After considering the representation of the petitioner with reference to inquiry report and material available on record, it is held that charge against the petitioner was proved and accordingly, inflicted the punishment of withholding of two increments with cumulative effect vide proceedings dated 03.12.1008. The appeal and revision preferred

by the petitioner were rejected on 21.05.2014 and 22.01.2015, respectively.

11. A perusal of the impugned memos and the material available on record would show that during the enquiry conducted by the enquiry officer, the charges levelled against the petitioner were not proved. The 2<sup>nd</sup> respondent being disciplinary authority accepted the findings of the enquiry officer. However, instead of closing the disciplinary proceedings, the disciplinary authority has sought advice of advisory body of the vigilance commissioner vide letter dated 04.12.2006. The Government vide Memo dated 13.08.2007, while disagreeing with the findings of the enquiry officer, held charges as proved and requested the Transport Commissioner to differ with the findings of the enquiry officer and communicate the enquiry report with disagreement factors to the charged employee. It is relevant to reproduce paragraph-8 of the counter filed on behalf of the respondents, which read as under:

“8. It is submitted that after careful examination of the enquiry report, the Transport Commissioner being the disciplinary authority accepted the findings of the

enquiry officer and the proposals were sent to the Government for advice of the advisory body in the vigilance matters, vide letter dated 04.12.2006.”

12. The 2<sup>nd</sup> respondent being the disciplinary authority, having accepted the findings of the enquiry officer, erred in sending the proposals to the Government for advice of the advisory body in the vigilance matters. It is settled law that the Government can exercise powers as appellate authority, however, cannot direct the disciplinary authority to disagree with the findings of the enquiry officer without hearing the charged employee. Therefore, further steps taken by the disciplinary authority pursuant to the Memo dated 13.08.2007 issued by the Government are improper and vitiated.

13. In **Nagaraj Shivarao Karjagi** (supra), the Hon'ble Supreme Court held as under:

“19. .... The punishment to be imposed whether minor or major depends upon the nature of every case and the gravity of the misconduct proved. The authorities have to exercise their judicial discretion having regard to the facts and circumstances of each case. They cannot act under the dictation of the Central Vigilance Commission or of the Central Government. No third party like the Central Vigilance

Commission or the Central Government could dictate the disciplinary authority or the appellate authority as to how they should exercise their power and what punishment they should impose on the delinquent officer. (See : De Smith's *Judicial Review of Administrative Action*, 4th edn., p. 309). The impugned directive of the Ministry of Finance, is therefore, wholly without jurisdiction, and plainly contrary to the statutory Regulations governing disciplinary matters.”

14. In the above decision, the Hon’ble Apex Court held that the disciplinary authority cannot act under the direction of the Central Vigilance Commission or of the central government. No third party like the Central Vigilance Commission or the Central Government could dictate the disciplinary authority or the appellate authority as to how they should exercise their power and what punishment they should impose on the delinquent officer. It was further observed that imposing the punishment mechanically by accepting the Vigilance Commissioner’s report amounts to non-application of mind.

15. The decision relied upon by the learned counsel for the petitioner squarely applies to the facts and circumstances of the

present case. Therefore, I am in respectful agreement with the above decision of the Hon'ble Apex Court.

16. In the case on hand, the disciplinary authority had sought advice of advisory body in vigilance matters despite accepting the report of the enquiry officer that the charges levelled against the petitioner are not proved. Therefore, the Disciplinary Authority failed to act independently and as such, further action taken by the disciplinary authority basing on the Government Memo dated 13.08.2007 in not accepting the report of the enquiry officer and also imposing punishment of withholding two increments with cumulative effect vide proceedings dated 03.12.2008 is improper, contrary to settled principle of law and thus, unsustainable.

17. In view of the above discussion, facts and circumstances and the legal position, this Court is of the considered view that the punishment imposed against the petitioner is liable to be set aside.

18. In the result, the Writ Petition is allowed. The impugned show-cause notice dated 23.08.2007 and the proceedings dated 03.12.2008 issued by the 2<sup>nd</sup> respondent are set aside. There shall be no order as to costs.

Pending Miscellaneous Applications, if any, shall stand closed.

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**LAXMI NARAYANA ALISHETTY,J**

Date: 21.03.2024  
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