

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.25198 of 2021

Between:

K.Anand Babu

...Petitioner

AND

1. The State of Telangana, rep. By its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad and another

...Respondents

ORDER PRONOUNCED ON: 12.06.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH**+WRIT PETITION NO.25198 of 2021**

%Dated 12.06.2023

K.Anand Babu

...Petitioner

AND

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...Respondents

! Counsel for Petitioner : Sri S.Gopal Rao

^ Counsel for Respondents: Assistant Government Pleader for Services-III

< GIST :

> HEAD NOTE :

? Case referred

1.2005 (6) SCC 636

THE HON'BLE SRI JUSTICE K.SARATH**WRIT PETITION No.25198 of 2021****ORDER:**

1. Heard Sri S.Gopal Rao, learned Counsel appearing for the petitioner and the learned Assistant Government Pleader for Services-III.

2. The learned Counsel for the petitioner submits that the petitioner is questioning the proceedings in G.O.Rt.No.509, MA & UD (Vig.II) Department dated 24.08.2017, G.O.Rt.No.267, MA&UD (Vig.III) Department dated 31.03.2021 appointing an Enquiry Officer and Presenting Officer respectively for concluding the disciplinary proceedings initiated in Charge Memo No.G.O.Rt.No.1312, MA & UD (E2) Department dated 18.11.2006 which is not communicated to the petitioner and the delinquency pertains to the year 1997-98 and continuance of the

prolonged disciplinary proceedings without even commencing the same so far and for not-releasing the pensionary benefits including gratuity, etc. though the petitioner retired from service on 30.06.2017 on attaining the age of superannuation.

3. The Learned Counsel submits that the respondents said to have issued Charge Memo in G.O.Rt.No.1312, MA and UD (E2) Department dated 18.11.2006 which was not even communicated to the petitioner and the allegations are that the petitioner and three others allowed a builder to construct the unauthorized construction in a cellar floor into shops and regularizing the same in violation of Rules in the erstwhile Municipal Corporation of Hyderabad and the said allegation pertains to the year 1997-98.

4. The learned Counsel for the petitioner further submits that out of the four names mentioned in the

impugned proceedings one Sri Azmathulla expired long back, Sri P.A.S.Lakshamna Rao, who was allotted to the State of Andhra Pradesh, was retired long back and Sri Goverdhan Reddy also retired long back and the Enquiry Officer was appointed after lapse of 20 years of the alleged incident and after four years of appointment of enquiry officer, the respondents have issued G.O.Rt.No.267, MA & UD (Vig.III) dated 31.03.2021 and appointed the Presenting Officer for concluding the enquiry.

5. The learned Counsel for the petitioner further submits that continuing the disciplinary proceedings even after lapse of 24 years from the date of alleged delinquency is contrary to well established law and the protracted disciplinary enquiry against a Government employee should be avoided not only in the interest of Government employee but in the public interest and

also in the interest of inspiring confidence in the minds of the Government employees and the same is also contrary to the G.O.Ms.No.679, GAD (Ser.C) dated 01.11.2008, which prescribes the time limit as 3 months in the simple cases and 5 to 6 months in complicated cases.

6. The learned Counsel for the petitioner further submits that in the instant case more than two decades have been elapsed but nothing is proceeded further subjecting the petitioner to mental agony by denying the legitimate right to have pensionary benefits, gratuity, etc., though he retired from service on 30.06.2017 and requested to allow the writ petition.

7. The learned Counsel for the petitioner in support of his contention riled on the judgment:

***P.V.Mahadevan Vs. M.D.Tamil Nadnu, Housing Board*¹**

¹ 2005 (6) SCC 636

8. The learned Assistant Government Pleader for Services-III basing on the counter submits that the petitioner and others without following the rules allowed the builder to covert the cellar into shops and regularized the same in violation of Rules in Dilsukhnagar area of erstwhile Municipal Corporation of Hyderabad. Due to administrative lapses, the respondents could not appoint the Enquiry Officer in time and there is no fault on the part of the respondents as the Enquiry Officer did not submit his report even after lapse of three years and in view of the same there is no lapse on the part of the respondents and requested to dismiss the writ petition.

9. After hearing both sides and after perusing the record this Court is of the considered view that the petitioner was retired from Service on 30.06.2017 as

Director, Town and Country Planning on attaining the age of superannuation. The allegation against the petitioner is that while the petitioner working as City Planner, Circle-I (H.O) MCH, he allowed the builder to convert the cellar floor into shops and same was regularized unauthorizedly in the year 1997-98 and the respondents have issued Articles of Charge to the petitioner in G.O.Rt.No.1312, MA & UD dated 18.11.2006 and as per the contention of the petitioner the same was not served to him.

10. The respondents in their counter did not answer about non-service of said charge Memo to the petitioner. The respondents have not taken any steps for concluding the disciplinary proceedings within a reasonable time, but issued G.O.Rt.No.509, MA & UD dated 24.08.2017 and appointed the Enquiry Officer and after four years issued G.O.Rt.No.267 MA & UD

(Vig.III) dated 31.03.2021 and appointed the Presenting Officer for conducting enquiry against the petitioner and three others. As per the Writ Affidavit one Sri Azmathualla, Town Planning Assistant, expired long back, Sri P.A.S. Lakshman Rao, the then ACP was allotted to State of Andhra Pradesh was retired from Service. Now, the petitioner and one Goverdhan Reddy, UDC, TP Section retired from service in the Telangana State. The respondents did not explain in their counter about the reasons to include the death person and others in the impugned orders and the delay as per the contention raised by the petitioner.

11. As per G.O.Ms.No.679, GAD dated 01.11.2008, the respondents have to conclude the disciplinary proceedings within 3 months in simple cases and 5 to 6 months in case of complicated cases. The Hon'ble Supreme Court and this Court time and again

held in several cases that the disciplinary proceedings must be concluded within a reasonable time, otherwise the same are liable to be quashed on the ground of delay and laches.

12. The Judgment relied on by the learned Counsel for the petitioner in **P.Mahadevan's case (supra)** squarely apply to the instant case and the relevant portion of the said judgment is as follows:

“11. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a government employee should, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department

in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer”

13. In the instant case also the respondents without giving any reasons in continuing the disciplinary proceedings against the petitioner from 2006 onwards and withholding the pensinary benefits is arbitrary, illegal and violation of Articles 14 and 21 of Constitution of India.

14. In view of the above finding, this Writ Petition is allowed by setting aside the impugned proceedings in G.O.Rt.No.509, MA & UD (Vig.II) Department dated 24.08.2017, G.O.Rt.No.267, MA&UD (Vig.III) Department dated 31.03.2021 in so far as the petitioner is concerned and also the Charge Memo issued in G.O.Rt.No. 1312, MA & UD (E2) Department Dated 18.11.2006 and further the respondents are directed to release the entire pensionary benefits to

the petitioner from the date of his retirement i.e.
30.06.2017 within twelve (12) weeks from the date of
receipt of copy of this order.

15. Miscellaneous applications, if any, shall stand
closed. There shall be no order as to costs.

JUSTICE K.SARATH

Date:12.06.2023
trr

Note:
L.R. copy to be marked
b/o