

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI****WRIT PETITION NO: 26455 of 2000**

Smt. L.Usha Rani,

...Petitioner

Vs.

The A P State Seeds Development Corporation ...Respondent(s)
Limited and Others

Advocate for Petitioner: GANTA PRASAD

Advocate(s) for Respondent(s): A V KONDAIAH,
V AJAYAKUMAR,
M DURGA PRASAD,
CH SHYAM SUNDER RAO**CORAM : SRI JUSTICE CHALLA GUNARANJAN****DATE : 4th December 2025****ORDER:**

The present writ petition is filed assailing the order dated 04.11.2000 passed by the 2nd respondent, communicating the decision of the Board of Directors-1st respondent, by which the petitioner was removed from service on account of irregularities being proven during the disciplinary proceedings to be illegal, arbitrary, without jurisdiction and consequently to pay the

monetary benefits by fixing the salary with notional seniority and all other retirement benefits.

2. Brief facts of the case are as follows:

(a) The writ petitioner was initially appointed as attender on 14.10.1990 in the 1st respondent Corporation and has been working at Vijayawada office since then. The 1st respondent had undertaken the exercise of distribution of seeds on subsidy basis for Rubi season 1989-90, for which purpose a sales counter was opened at Vijayawada. The petitioner and two other officers, Junior Assistant and Assistant Manager, were deputed at the said counter for the purpose of distribution of seeds meant to be issued to eligible farmers on subsidy basis. In the course of time, alleging that the persons who were posted at the said sales counter indulged in dubious activities of siphoning of the money collected from the farmers by not accounting for and issuing fake and fabricated account slips, the disciplinary proceedings came to be initiated, besides initiating criminal proceedings.

(b) The petitioner was issued charge memo dated 01.04.1999, setting out four articles of charge, which essentially related to accepting Xerox copies of permit slips with manual

serial numbers and resultantly conducting sale of seeds on subsidy and further acceptance of inadequately stamped permits for conducting aforesaid sales. The petitioner submitted statement of defence refuting the aforesaid charges. Simultaneously, on the very same set of charges, a complaint was lodged with police and FIR came to be registered *vide* Crime No.183 for the offences under Sections 109, 420, 468 and 471 of IPC against the petitioner and the two other officers, who stated to have been deputed at the sales counter. Based on the preliminary enquiry report, the petitioner was placed under suspension and after conducting the enquiry by the enquiry officer, a report dated 05.01.2000 came to be issued holding that two charges were proved. Later, enquiry report was furnished to the petitioner and she was called upon to submit explanation, pursuance to which explanation has been submitted on 28.04.2000.

(c) The Board of Directors, at meeting held on 26.09.2000, having considered the explanation submitted by the petitioner, ultimately decided to remove her from service, by holding that the aforesaid act of the petitioner and two other officers resulted in causing huge monetary loss of Rs.18,26,324/- to the Corporation.

Accordingly, the said decision of the Board of Directors came to be communicated to the petitioner by proceedings dated 04.11.2000, issued by the 2nd respondent.

(d) Assailing the same, the present writ petition is filed.

3. The respondents have filed counter affidavit supporting the decision of the Board of Directors, while reiterating the contents of the enquiry report and the final decision made by them.

4. Heard Sri Ganta Prasad, learned counsel for the petitioner and Sri M. Durga Prasad, learned Standing Counsel for the respondent Corporation.

5. Learned counsel for the petitioner contended that the impugned order dated 0411.2000, issued by the 2nd respondent, communicating the decision of the Board of Directors removing the petitioner from service on account of imposing major penalty is clearly without jurisdiction, inasmuch as the Discipline and Appeal rules framed by the 1st respondent Corporation did confer the power to initiate disciplinary action only on the 2nd respondent, but not on the Board of Directors and in fact the Board of Directors has been designated to be an appellate authority. He further contended that in respect of the very same

two charges, which were held to be proved in the enquiry report and also became the basis for imposing major punishment of removal from service, were also the subject matter of criminal proceedings in C.C.No.338 of 2007, which ultimately resulted in hon'ble acquittal on the file of the 2nd respondent- Magistrate for Railways at Vijayawada, by judgment and order dated 29.03.2018. Hence, the order of the disciplinary authority cannot sustain in view of the ratio laid down by the Hon'ble Apex Court in ***G.M.Tank v.State of Gujarat & Others***¹ and ***M.Paul Anthony v. Bharat Gold Mines Limited and Another***². He further contended that the circular dated 23.10.1999, issued by the 1st respondent, clearly specified that the category of persons in the cadre of Attender, Watchman & Sweeper were prohibited from being posted at sales counter, therefore, the very assignment and entrustment of counter sales to the petitioner is clearly contrary to the said circular and therefore, she could not have been proceeded with any disciplinary proceedings at all.

6. *Per contra*, learned Standing Counsel for the respondent Corporation tried to sustain the findings rendered by the enquiry

¹ (2006) 5 SCC 446

² (1999) SCC 679

authority in the enquiry report and as confirmed by the Board of Directors in its proceedings dated 14.11.2000. He further contended that the suit initiated by the respondent Corporation in O.S.No.20 of 2000 against the petitioner and other two officers for recovery of the misappropriated amount since has been allowed and decreed by the judgment dated 01.08.2011, on the face of the findings rendered by the competent civil Court, the findings recorded by the enquiry officer and as accepted by the Board of Directors duly got fortified. Therefore, no interference is called for in the final decision made in the disciplinary proceedings.

7. Perused the record and considered the rival submissions.

8. The petitioner has been appointed as attender in class IV category and has been discharging duties accordingly. In the course of her duties, she was posted at sales counter for the purpose of distributing seeds meant for the eligible farmers on subsidy. The petitioner and two other officers eventually proceeded with disciplinary action on certain allegations and simultaneously, the Corporation, having found that there was misappropriation of amount and also forgery of the permits, lodged compliant with police, which resulted in criminal

proceedings in C.C.No.338 of 2007. Insofar as the petitioner is concerned, she has been charged with following charges:

“1) Accepting Xerox copies of permit slips with manual serial numbers and sale of seed under 50% subsidy.

2) Acceptance of impersonated & stamped permits for conducting sales under subsidy.

3) Non-intimation of heavy sales of particular crop on certain days at fag-end of the sale period.

4) Refusal in signing of beneficiaries lists when conducted the sales.”

9. The enquiry officer found that first two charges were proved and other two charges disproved. In the enquiry report, the enquiry officer has examined not only the delinquent officer but also the preliminary report presenting officer and considered various documents produced in support thereof. It is undeniable that even in the criminal proceedings as well, as many as 17 witnesses were examined as PW1 to PW17. However, PW1 to PW13 related to the respondent Corporation and PW14 to PW17 were the police personnel who investigated the case. In particular, the preliminary enquiry officer was examined as PW3, the agricultural officer as PW8 and the domestic enquiry officer as PW10, besides examining the concerned Village Assistant Secretary, Village Administrator Officer and other Managers of the

respondent Corporation. The prosecution has also relied on Exs.P1 to P14, of which the judgment and decree in O.S.No.20 of 2002 also found part. Insofar as the defence evidence was concerned, the accused therein got marked as DW1 and DW2, the circular and also the copy of permit book. The essential accusation made in the criminal proceedings was that the 3rd accused, the writ petitioner herein, while working in the sales counter at Vijayawada, had connived and indulged in siphoning the amount collected, to the tune of Rs.18,41,562, by issuing fake and forged permits with respect to Gampalagudem and G. Kondur Mandals. Therefore, they were charged for the offences under Sections 409, 420, 468, & 471 of IPC. The learned Magistrate, having considered the evidence on record, both oral and documentary, has ultimately come to conclusion that the prosecution has failed to prove the case against the accused beyond reasonable doubt and that the evidence adduced on behalf of prosecution was insufficient to fasten the liability on the accused qua the charges framed against them. Though all the officers of the Corporation, including the officers who were part of the disciplinary proceedings, were examined and the relevant documents were produced, the learned

Magistrate has come to conclusion that evidence produced was insufficient to prove the guilt.

10. There cannot be any dispute that the nature of allegations before the disciplinary authority and the criminal proceedings were one and the same. As accusations in both proceedings being one and the same, even the evidence adduced in both the proceedings was also more or less similar and identical. In fact, in the criminal proceedings, both the prosecution and the corporation have adduced much more evidence than what was placed before the disciplinary authority, however, they were unsuccessful to prove that the accused therein were guilty of the offences. As rightly contended by learned counsel for the petitioner, supported by the judgments referred *supra*, in case where the substance of accusation in criminal case and the departmental proceedings are exactly the same, the witnesses if examined are same and the acquittal if is honourable one based on no evidence, the same would definitely have impact on the departmental proceedings.

11. The Hon'ble Apex Court, while considering the effect of acquittal in criminal proceedings qua the order of the dismissal in

pursuance to departmental proceedings, after analyzing various precedents on the point, in **Ram Lal v. State of Rajasthan**³, held as follows:

“28. Expressions like “benefit of doubt” and “honourably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.

29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, “not proved” — in fact the charge even stood “disproved” by the very prosecution evidence. As held by this Court, a fact is said to be “disproved” when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances

³ (2024) 1 SCC 175

of the particular case, to act upon the supposition that it does not exist. A fact is said to be “not proved” when it is neither “proved” nor “disproved” (see *Vijayee Singh v. State of U.P.* [*Vijayee Singh v. State of U.P.*, (1990) 3 SCC 190 : 1990 SCC (Cri) 378]).

30. We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in *G.M. Tank* [*G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] .”

12. Therefore, it is irresistible to take a view in the facts and circumstances of the present case that as both accusations as well as the witnesses examined in the departmental proceedings and the criminal proceedings being same and ultimately the criminal case since ended in honourable acquittal, the findings of the enquiry officer, as accepted by the disciplinary authority, will have to give way with due credence to the judgment in the criminal case.

13. Be that as it may, even otherwise, as seen from the Discipline and Appeal rules framed by the respondent Corporation, the disciplinary powers are conferred on the Managing Director and further appeal is provided to the Board of Directors. Clause (2)(f) defines 'disciplinary authority' to mean the authority competent to impose any penalty under the rules, as specified in the schedule. Insofar as Attender/Watchman/Sweeper, who have been placed under class IV category, the schedule clearly envisages the appointing authority to be the Managing Director who equally would be the disciplinary authority for both minor and major penalties and the Board to be the appellate authority. As seen from the impugned proceedings dated 04.11.2000, though the same has been issued by the Managing Director, he merely communicated the decision of the Board of Directors, therefore, as power to initiate disciplinary proceedings since has been specifically conferred on the Managing Director, the decision of the Board, which otherwise an appellate authority, is clearly contrary to the rules.

14. As the Board, which is the appellate authority, itself has exercised the power of disciplinary authority, the petitioner would lose valuable right of appeal, which is otherwise conferred under

the rules. The powers of the appellate authority are coextensive to that of the primary authority, therefore, on question of fact, in the absence of appeal being provided under the rules, such finding of fact cannot be contested as the same would attain finality. The judicial review under Article 226 of Constitution of India before the High Court being limited only to the extent of seeing whether there is patent jurisdictional error or violation of principles of natural justice or the findings rendered were perverse and as this Court would not step in to re-appreciate the evidence or sit in appeal as an appellate authority by usurping the right of appeal, one would definitely be deprived of the opportunity to canvass questions of fact otherwise.

15. In above regard, it is useful to refer to the judgment of Hon'ble Apex Court in **Brij Bihari Singh v. Bihar State Financial Corporation**⁴, wherein at paragraphs 12 and 14 it is held thus:

“12. A right of appeal has been provided by Regulation 40 of the said Regulations against any order passed by the competent authority. In the instant case as noticed above, the disciplinary authority, instead of exercising the power as disciplinary authority imposing punishment, referred his recommendations to the appellate authority, namely, Board

⁴ (2015) 17 SCC 541

of Directors for taking a decision and the Board of Directors exercised the power of disciplinary authority and imposed punishment of dismissal thereby depriving the appellant from moving the appellate authority against the said order. Such exercise of power is wholly arbitrary and discriminatory.

14. In *Surjit Ghosh v. United Commercial Bank* [*Surjit Ghosh v. United Commercial Bank*, (1995) 2 SCC 474 : 1995 SCC (L&S) 529 : (1995) 29 ATC 373 : AIR 1995 SC 1053] , this Court in similar circumstances, observed: (SCC p. 477, paras 6-7)

“6. ... It is true that when an authority higher than the disciplinary authority itself imposes the punishment, the order of punishment suffers from no illegality when no appeal is provided to such authority. However, when an appeal is provided to the higher authority concerned against the order of the disciplinary authority or of a lower authority and the higher authority passes an order of punishment, the employee concerned is deprived of the remedy of appeal which is a substantive right given to him by the Rules/Regulations. An employee cannot be deprived of his substantive right. What is further, when there is a provision of appeal against the order of the disciplinary authority and when the appellate or the higher authority against whose order there is no appeal, exercises the powers of the disciplinary authority in a given case, it results in

discrimination against the employee concerned. This is particularly so when there are no guidelines in the Rules/Regulations as to when the higher authority or the appellate authority should exercise the powers of the disciplinary authority. The higher or appellate authority may choose to exercise the power of the disciplinary authority in some cases while not doing so in other cases. In such cases, the right of the employee depends upon the choice of the higher/appellate authority which patently results in discrimination between an employee and employee. Surely, such a situation cannot savour of legality. Hence, we are of the view that the contention advanced on behalf of the respondent Bank that when an appellate authority chooses to exercise the power of disciplinary authority, it should be held that there is no right of appeal provided under the Regulations cannot be accepted.

7. The result, therefore, is that the present order of dismissal suffers from an inherent defect and has to be set aside.”

16. In view of the ratio laid down above, inasmuch as even in the present case, the appellate authority has taken upon itself the disciplinary proceedings and that no further appeal is envisaged under the Discipline and Appeal Rules, the impugned order of

dismissal clearly suffers from inherent defect and therefore is arbitrary and discriminatory, hence, is required to be set aside.

17. Coming to the aspect of granting back wages, learned counsel for petitioner has laid much emphasis on the judgment of Hon'ble Apex Court in **Jayantibhai Raoji Bhai Patel v. Municipal Council, Narkhed**⁵. Taking aid of the said judgment, he contended that once it is found that the termination of service is illegal, said wrongful termination should necessarily be compensated by way of granting back wages, which is normal rule. However, learned counsel for respondent contended that grant of back wages would not be automatic and the same is circumscribed with precondition that the employee has to plead that he/she was not gainfully employed or was employed on lesser wages, which is clearly lacking in the present case, therefore, is not entitled for the same.

18. This Court recently, in **P.Srinivas v. APSRTC**⁶ has summed up the law on grant of back wages by referring to the recent judgment of Hon'ble Apex Court in **Maharashtra SRTC v.**

⁵ (2019) 17 SCC 184

⁶ W.P. No.13930 of 2007, dated 22.11.2025

Mahadeo Krishna Naik ⁷ . Keeping in view the principle enunciated above, the claim for grant of back wages would have to be preceded by minor fact-finding exercise, in which process it has to be seen as to whether the employee has made any statement or produced any details as to whether he/she was gainfully employed or not after removal from service.

19. Perusal of the pleadings in the present case, no such statement to the effect that the petitioner was not gainfully employed is found. Even in the I.A. No.1 of 2025 filed recently, by which amendment of main writ prayer was sought for, no such statement is found. Be that as it may, this Court is of the opinion that the ends of justice would be met by directing the respondents to pay an amount quantified at Rs.5,00,000/- in full and final settlement of the claim for back wages for the period between date of order of removal and the date on which she attained age of superannuation. In addition to the same, petitioner is eligible for all retirement benefits, therefore, the respondents are directed to pay the same accordingly. Aforesaid payments are directed to be made within a period of three months from the date of receipt of copy of this order.

⁷ (2025) 4 SCC 321

19. Accordingly, this writ petition stands allowed. No costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

CHALLA GUNARANJAN, J

SS/ANS