



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

WEDNESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 30514/2025

Between:

1. KVLN PRASAD, S/O. KVGK APPARAYA SHARMA, AGED
61 YEARS WORKING AS ASSISTANT MOTOR
VEHICLES INSPECTOR, (AMVI) O/O. ANANTHAPUR
(HEAD QUARTERS) ANANTHAPUR DISTRICT. (NOW
DISMISSED FROM SERVICE)

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED
BY ITS PRINCIPAL SECRETARY TRANSPORT AND
ROADS AND BUILDINGS DEPARTMENT, STATE OF AP,
SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR
DISTRICT, AR

2. THE COMMISSIONER, TRANSPORT DEPARTMENT AP,
BUS BHAVAN 3RD FLOOR, PANDIT NEHRU BUS
STAND, VIJAYAWADA, KRISHNA DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue a Writ or Order more in the nature of Mandamus in declaring the action of the 1st respondent in imposing major punishment of dismissal from service through Memo No.TRBO1-14022/17/2018 (552927) dated 15.06.2025 followed by the 2nd respondent proceedings Rc NO.20024/12/V2/2018 (Old No.4849/V3/V2/2008)Dated17.07.2025,as illegal, arbitrary, without application of independent mind, by appellate authority, without jurisdiction and competency, in violation of principles of natural justice, without reasons, not speaking orders, abnormal delay in concluding the disciplinary action, discriminatory. disproportionate, without evidence, violative of Rule 21 of AP CCCA Rules, and accordingly set aside the 1st respondent Memo No.TRBOI- 14022/17/2018 (552927) dated 15.06.2025 followed by the 2nd respondent proceedings Rc NO.20024/12/V2/2018 (Old No.4849/V3/V2/2008)Dated 17.07.2025,with a consequential direction to the reinstate the petitioner into service with all consequential service and monetary benefits

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to reinstate the petitioner into service by SUSPENDING the 1^ respondent Memo No.TRBOI- 14022/17/2018 (552927) dated 15.06.2025 followed by the 2 respondent proceedings Rc No.20024/12/V2/2018 (Old No.4849/V3/V2/2008)Dated: 17.07.2025

Counsel for the Petitioner:

1.K R SRINIVAS

Counsel for the Respondent(S):

1.GP FOR SERVICES II

The Court made the following:

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**WRIT PETITION No.30514 of 2025****ORDER:**

The present writ petition is filed questioning the action of Respondent No.1 in imposing major punishment of dismissal from service issued vide impugned Memo No.TRBO1-14022/17/2018 (552927) dated 15.06.2025, following by proceedings issued by Respondent No.2 in Rc.No.20024/12/V2/2018 (Old No.4849/V3 /V2/2008) dated 17.07.2025, as illegal and arbitrary.

2. The Petitioner is working as Assistant Motor Vehicles Inspector (for short 'AMVI') at Renigunta Checkpost, Thirupathi. While so, a surprise check was conducted by Anti Corruption Bureau (for short 'ACB') officials on 21.07.2008. On the basis of certain unaccounted cash recovered from the possession of the Petitioner at Renigunta Checkpost, a Charge Memorandum vide Charge Memo No.4849/V3/2008-1 dated 09.12.2010 was issued to the Petitioner and later, Departmental Enquiry was initiated against the Petitioner on 09.12.2010 *vide* Charge Memorandum referred *supra*.

3. In the Charge Memorandum issued to the Petitioner, five (05) articles of charge were framed, eight (08) witnesses were cited, and fifteen (15) documents were relied upon. To substantiate the charges against the Petitioner, an enquiry was conducted in compliance with the proceedings, and an enquiry report was submitted on 26.10.2022 vide Proceedings in R.No.20024/14/V2/2019 (4849/V3/V2/2008) dated 17.07.2025, which held all five charges framed against the Petitioner as proved. Subsequently, explanation was sought from the Petitioner by the Disciplinary Authority/Respondent No.2, and Petitioner submitted his representation dated 05.12.2022, however, the Petitioner was imposed major penalty of dismissal from service vide impugned proceedings. Hence, the present writ petition is filed.

4. The counsel for the Petitioner limited his arguments to the manner in which the impugned proceedings were passed. Learned counsel for the Petitioner submitted that Respondent No.1 did not consider the representation given by the Petitioner dated 05.12.2022 and passed the impugned proceedings dated 15.06.2025 referred *supra*, imposing the major penalty of

dismissal from service on the Petitioner. It was contended that Government Memo dated 15.06.2025 issued by Respondent No.1 was specifically referred to as Reference No.10 in the impugned proceedings, imposing a major penalty of dismissal from service on the Petitioner which was passed by Respondent No.2. Learned Counsel for the Petitioner further stated that there is no independent assessment of the explanation that was given by the Petitioner and the impugned proceedings issued by Respondent No.2 were passed on the advice of the State Government. By saying so, learned counsel for the Petitioner seek to set aside the punishment imposed against the Petitioner on his short ground.

5. Learned Assistant Government Pleader for Services II submitted that the charges against the Petitioner were established in the enquiry report and the impugned proceedings were passed after independently examining the enquiry report as apparent from the reading of the impugned proceedings. Learned Assistant Government Pleader further submitted that merely because advice is sought from the Government, the impugned proceedings cannot be termed as unsustainable.

6. Heard Sri K. R. Srinivas, learned counsel for the Petitioner and learned Assistant Government Pleader for Services II.

7. There is no dispute to the facts referred above. The only issue that falls for consideration is the manner in which the impugned order was passed. After receipt of explanation from the Petitioner to the enquiry report, Respondent No.2 forwarded the same to the State Government for proposed punishment. Subsequently, Government issued a memo dated 15.06.2025 advising the Respondent No.2 to impose Major Penalty. Paragraph No.3 of the memo reads as under:-

“Government after detailed examination of the case hereby decided to impose the Major Penalty i.e., punishment of dismissal from service in respect of the delinquent officer Sri K.V.L.N. Prasad, AMVI in terms of Rule 9 of A.P.C.S(CC&A) Rules, 1991”.

8. This memo is specifically referred in the impugned proceedings in the Reference No.10. The Disciplinary Authority, after referring the charges and findings, imposed the penalty of dismissal from service. The relevant portion of the impugned order is extracted as under:-

“In the reference 10th cited, after detailed examination of the case Government have decided to impose the Major Penalty

i.e., punishment of dismissal from service in respect of the delinquent officer Sri K.V.L.N. Prasad, AMVI in terms of Rule 9 of A.P.C.S (CC& A) Rules, 1991”.

“In view of the above, Sri K.V.L.N.Prasad, AMVI, O/o Deputy Transport Commissioner, Ananthapuram District is hereby dismissed from service with immediate effect”.

“The dismissed Government Servant is hereby informed that there is provision to Appeal under Rule 33 of Andhra Pradesh Civil Services (CC&A) Rules, 1991, on this order before the Government and the appeal shall be liable to be filed within a period of three months as stipulated under Rule 35 of Andhra Pradesh Civil Services (CC&A) Rules, 1991”.

9. The power of imposition of penalty is a discretionary power is conferred to the Disciplinary Authority, but contrary to the same, the impugned order of punishment was passed on dictation and without taking into consideration the explanation given by the Petitioner. The action of the disciplinary authority solely on the dictation of Government which is also an appellate authority under Rule 33 of A.P. Civil Services (CCA) Rules, 1991 is unsustainable. Further, there was no requirement to the disciplinary authority to forward the explanation of the Petitioner and seek opinion of the State Government.

10. In ***Dipak Babaria & Anr. vs. State of Gujarat & Ors***¹ Hon'ble Supreme Court held that, acting on dictation would be

¹ 2014 (3) SCC 502

termed to be an order in bad faith and abuse of power.

Paragraph No.69 is extracted below:-

69. Besides, the present case is clearly a case of dictation by the State Government to the Collector. As observed by Wade and Forsyth in the 10th Edn. of Administrative Law:

“If the Minister's intervention is in fact the effective cause, and if the power to act belongs to a body which ought to act independently, the action taken is invalid on the ground of external dictation as well as on the obvious grounds of bad faith or abuse of power.”

The observations by the learned authors to the same effect in the 7th Edn. were relied upon by a Bench of three Judges of this Court in Anirudhsinhji Karansinhji Jadeja v. State of Gujarat [(1995) 5 SCC 302 : 1995 SCC (Cri) 902] . In that matter the appellant was produced before the Executive Magistrate, Gondal, on the allegation that certain weapons were recovered from him. The provisions of TADA had been invoked. The appellant's application for bail was rejected. A specific point was taken that the DSP had not given prior approval and the invocation of TADA was non est. The DSP, instead of granting prior approval, made a report to the Additional Chief Secretary, and asked for permission to proceed under TADA. The Court in paras 13, 14, 15 has held this to be a clear case of “dictation”, and has referred to Wade and Forsyth on Surrender, Abdication and Dictation.

11. In the case of **A. Laxminarayana V. District Collector (BCW), Karimnagar District and others²**, with regard to A.P. Civil Services (Classification, Control and Appeal) Rules 1991, High Court of Telangana in Paragraph Nos.9 to 13, held as below:-

9. As per Rules 20 and 21 of the CCA Rules, 1991, if the Disciplinary Authority is not in agreement with the findings

² 2020(5)ALD 458 (TS)

recorded by the Enquiry Officer, he can defer with the findings, record his dissenting note, call for explanation of the delinquent employee and take further action. If the Disciplinary Authority notices discrepancies in the Enquiry, he can remit the matter to the Enquiry Officer for conducting further Enquiry/De novo Enquiry as the case may be, but fundamentally, the Disciplinary Authority being a quasi-judicial authority, has to independently act in the matter to decide the delinquency of the employee concerned, working under him and take appropriate decision.

10. Once a decision is taken by the disciplinary authority on any matter concerning disciplinary action, if employee is not satisfied, he may go in appeal and/or revision. Rule 37 of the CCA Rules vests power in the appellate authority to enhance/reduce the punishment imposed by the disciplinary authority, if he is not satisfied with the said decision. Under Rule 38 power of review is available in the Government. Rule 40 vests overarching power of revision in the Government. Rule 41 vests power of review in the Government on a reference by the Head of Department. Residuary power is vested in the State Government and in certain circumstances, it can take up the disciplinary action on its own.

11. Within the jurisdiction of the Disciplinary Authority, the quasi-judicial power is unrestricted and cannot be fettered by any means by the superior authority, however high he may be, including the Government. I am fortified in my view by the law declared by the Hon'ble Supreme Court in Nagaraj Shivarao Karjagi v. Syndicate Bank, (1991) 3 SCC 219 and the opinion expressed by the Division Bench of this Court in D. Ramesh Sinha v. Cadre Authority for Key Personnel, WA No.562 of 2001, dated 19.6.2001, 2002 Suppl. (2) ALD 687 (DB).

12. That being the statutory scheme and the law, strangely, at the stage of consideration of report of the Enquiry Officer, the Disciplinary Authority forwards the entire record to Government. The Government in turn, examines the record as if it is acting as Original Authority or - Supervising Authority over the functioning of Disciplinary Authority, records what is - to be disagreed upon, mandates Disciplinary Authority to notify the disagreement points and further mandates to impose appropriate punishment mentioned therein. It also intended to monitor what steps are taken by asking the Collector to send the report - after finalizing the proceedings. In other words, the Government was directing the - District Collector to act as per its commands taking away the discretion vested in Competent Authority and subjugated the discretion of the Disciplinary Authority to its command.

13. The question of sending report to Government, seeking its direction and acting upon those directions is not

permissible. It would be amounting to the Disciplinary Authority not applying his mind independently, but acting on the commands of the Superior Authority. This is per se illegal".

12. In the light of the above, the impugned proceedings of dismissal passed against the Petitioner are set aside and the writ petition is disposed of with following conditions:-

(i) The Respondent No.2 shall independently assess and examine the Explanation given by the Petitioner and shall pass Appropriate Orders without being influenced by the advice given by the State Government/Respondent No.1 *vide* Memo No.TRBO1-14022/17/2018 (552927) dated 15.06.2025.

(ii) There shall be no order as to costs.

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

JUSTICE NYAPATHY VIJAY

Date : 10.12.2025
CHS

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

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Date : 10.12.2025

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