

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION (TR).NO: 5705 OF 2017

Between:

K.Venkataiah, S/o. Balaiah, Aged about 45 years, ARPC No.1803, A.R Head Quarters, Nalgonda, Nalgonda District. R/o D-11, Head Quarters, Nalgonda.

.....APPLICANT

AND

1. The Superintendent of Police, Nalgonda-508001.
2. The Deputy Inspector General of Police Hyderabad Range, Hyderabad-500004.
3. The Inspector General of Police, Hyderabad Region, Hyderabad-500004.
4. The State of Telangana, rep., by its Principal Secretary to Home (services-It) Department, Secretariat Buildings, Hyderabad.-500022.

.....RESPONDENTS

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 to call for the records relating to and in connection with the Impugned Proceedings in C.No.13/A6-1/OE/13-14(4080) DO.No.154/2015 dt.16.01.2015 of the 1st respondent and consequential Proceedings R.O.No.282/2015 RC.No.298/D1-10/HR/2015 dated 16.04.2015 of the 2nd respondent and Proceedings R.O.No.222/2015 RC.No.94/PR/West Zone/2015 dated 30.07.2015 of the 3rd respondent and quash or set-aside the same by declaring them as illegal, arbitrary, violative of Article 14, 16 and 21 of the Constitution of India and consequently direct the respondent to drop the punishment against the applicant and grant all consequential service and monetary benefits to the applicant.

Counsel for the Petitioner : SRI A.TIRUPATHI GOUD

Counsel for the Respondents : G.P FOR SERVICES (HOME)

The Court made the following ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION (Tr.) No.5705 OF 2017

**THE FIFTH DAY OF DECEMBER,
TWO THOUSAND AND TWENTY FIVE**

Between:

K.Venkataiah

...Petitioner

AND

The Superintendent of Police,
Nalgonda-508001 and three others.

.. Respondents

ORDER:

This Writ Petition (TR) is filed seeking the following relief:

"...to call for the records relating to and in connection with the Impugned Proceedings in C.No.13/A6-1/OE/3-14(4080) DO.No.154/2015 dated 16.01.2015 of the 1st respondent and consequential Proceedings R.O.No.282/2015 RC.No.298/D1-10/HR/2015 dated 16.04.2015 of the 2nd respondent and proceedings R.O.No.222/2015 RC.No.94/PR/West Zone/2015 dated 30.07.2015 of the 3rd respondent and quash or set-aside the same by declaring them as illegal, arbitrary, violative of Article 14, 16 and 21 of the Constitution of India and consequently direct the respondent to drop the punishment against the applicant and grant all consequential service and monetary benefits to the applicant and to pass such other order or orders..."

2. Heard Sri A. Tirupathi Goud, learned counsel appearing for the petitioner, and learned Government Pleader for Services (Home), appearing on behalf of respondent Nos.1 to 4.

3. Learned counsel for the petitioner submits that the petitioner was placed under suspension *vide* proceedings dated 31.07.2013 while working as constable at A.R Headquarters, Nalgonda, alleging misconduct on the part of the petitioner apart from stating that he was found in an intoxicated condition and a preliminary enquiry was conducted by recording the statements of four witnesses and disciplinary proceedings were initiated against the petitioner. Subsequently, an article of charge dated 05.09.2013 was issued against the petitioner for which the petitioner has submitted his written statement on 08.10.2013, denying the charges in toto. However, without considering the said explanation in proper perspective, respondent No.1 appointed an enquiry officer *vide* proceedings dated 15.10.2013 and a full-fledged enquiry was conducted. Thereafter, the enquiry officer submitted his report *vide* proceedings dated 26.09.2014 holding the charge levelled against the petitioner as "not proved". Despite the same, respondent No.1 issued dissent note on 11.12.2014 disagreeing with the findings of the enquiry officer and sought further explanation from the petitioner. In response, the petitioner submitted his final representation on 27.12.2014 requesting to drop the further action by exonerating him from the alleged charge which was held not proved during the enquiry. However, without considering the above aspects, respondent No.1 issued the impugned proceedings dated

16.01.2015 awarding with an impugned punishment of "PPI for one year with effect on future increments and pension and his suspension period from 21.08.2013 to 23.09.2013 is treated as "Not on duty". Aggrieved by the same, the petitioner preferred an Appeal before respondent No.2 on 13.02.2015 which was erroneously rejected *vide* proceedings dated 16.04.2015. Thereafter, the petitioner also preferred Revision before respondent No.2 which was also rejected *vide* proceedings dated 30.07.2015.

4. It is further submitted that both respondents Nos.2 and 3 have failed to consider the explanation of the petitioner and mechanically issued the impugned orders, despite the charge being held as "Not proved", solely basing on the preliminary enquiry report which is clearly illegal, arbitrary, discriminatory, unjust and subversive of articles 14, 16 and 21 of the Constitution of India. Therefore, learned counsel seeks indulgence of this Court to set aside the impugned orders of rejection passed in Appeal and Revision dated 13.02.2015 and 30.07.2015 respectively.

5. *Per contra*, learned Government Pleader for Services (Home) appearing for respondents submits that the petitioner was initially placed under suspension *vide* proceedings dated 31.07.2013 for gross dereliction of his duties on 29.07.2013, at about 12:45 hours, when he came to AR headquarters, Nagonda, in an

intoxicated condition, drawn 303 Rifle with (50) rounds from Bells of Arms and threw the weapon and ammunition in-front of duty officer room and created nuisance in an undisciplined manner. As such, a preliminary enquiry was conducted and the preliminary enquiry officer has submitted his report dated 21.08.2013 establishing a *prima facie* against the petitioner. Thereafter, disciplinary proceedings were initiated against the petitioner *vide* charge memo dated 05.09.2013 and enquiry was conducted. However, the Enquiry Officer has submitted his report dated 26.09.2014, holding the charge as "not proved" and the disciplinary authority has found the findings of the Enquiry Officer as "not agreeable". As such a dissent note dated 11.12.2014 was issued with the reasons for disagreement and an explanation was called for from the petitioner. Thereafter, the petitioner has submitted his explanation on 27.12.2014. Further, after carefully examining the entire material on record i.e., preliminary enquiry report, Articles of Charge, Inquiry report, further representation of the petitioner and other connected records, the Disciplinary Authority was not convinced with the points raised by the petitioner in his explanation and thus, rightly awarded punishment of 'PPI for one (1) year with effect on future increments and pension' *vide* impugned proceedings dated 16.01.2015. Thereafter, the Appeal and Revision were also rightly rejected by respondent

Nos.2 and 3 respectively *vide* orders dated 16.04.2015 and 30.07.2015 respectively. Aggrieved by the same, the petitioner submitted a mercy petition which was returned to the petitioner *vide* memo dated 29.09.2015 as there is no provision in the Rules to entertain such mercy petition. Therefore, it is prayed to dismiss the present Writ Petition.

6. Having regard to the submissions made by the respective parties and upon perusal of the material on record, it is clear that the impugned punishment of "PPI for one (1) year with effect on future increments and pension" was imposed upon the petitioner *vide* impugned proceedings dated 16.01.2015, despite the fact that the Enquiry Officer held the charge against the petitioner as not proved *vide* Enquiry report dated 26.09.2014.

7. In this context, it is pertinent to note that the sole basis for imposition of the impugned punishment is the disagreement with the findings of the Enquiry Officer *vide* dissent note dated 11.12.2014, wherein, heavy reliance was placed upon the preliminary enquiry report of the Regional Inspector, AR Nalgonda, dated 21.08.2013. However, it is well-settled law that when a domestic enquiry is conducted and the charges are held as not proved, the authority cannot rely upon a preliminary enquiry report for imposition of a final punishment. As such, a preliminary

enquiry report is presented for the purpose of establishing a *prima facie* and to determine whether a full-fledged enquiry/disciplinary proceedings are necessary to elicit the truth or not.

8. The Hon'ble Apex Court in ***Nirmala.J.Jhala Vs. State of Gujarat and Another***¹, has categorically held that Disciplinary Authority cannot rely upon a preliminary enquiry report for imposition of any punishment against the Delinquent Officer. The relevant portion of the said Judgment reads as under:

42. A Constitution Bench of this Court in *Amalendu Ghosh v. North Eastern Railway*, held that the purpose of holding a preliminary inquiry in a respect of a particular alleged misconduct is only for the purpose of finding a particular fact and *prima facie*, to know as to whether the alleged misconduct has been committed and on the basis of the findings recorded in preliminary inquiry, no order of punishment can be passed. It may be used only to take a view as to whether a regular disciplinary proceeding against the delinquent is required to be held.

9. In the instant case, admittedly the punishment was imposed solely on the basis of the Preliminary Enquiry Report. Therefore, in view of the law laid down by the Hon'ble Apex Court in ***Nirmala.J.Jhala*** (supra), this Court is of the considered opinion that the impugned punishment is wholly unsustainable in the eye of law and it is therefore liable to be set aside. Consequently, the

¹ (2013) 4 SCC 301

rejection orders in Appeal and Revision are also liable to be set aside.

10. Accordingly, this Writ Petition (TR) is allowed and impugned orders vide proceedings in C.No.13/A6-1/OE '13-14(4080) DO.No.154/2015, R.O.No.282/2015 RC.No.298/D1-10/HR/2015 and R.O.No.222/2015 RC.No.94/PR/WestZone/2015 dated 16.01.2015, 16.04.2015 and 30.07.2015 issued by respondent Nos. 1 to 3 respectively are hereby set aside with all consequential benefits to the petitioner.

Miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

SD/- A. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

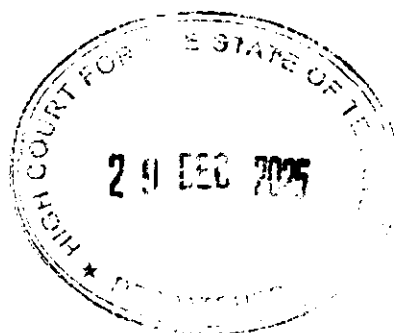
1. The Superintendent of Police, Nalgonda-508001.
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3. The Inspector General of Police, Hyderabad Region, Hyderabad-500004.
4. The Principal Secretary to Home, (Services-IT) Department, Secretariat Buildings, State of Telangana at Hyderabad.-500022.
5. Two CC's to G.P FOR SERVICES (HOME), High Court for the State of Telangana at Hyderabad. (OUT)
6. One CC to SRI A.TIRUPATHI GOUD, Advocate [OPUC]
7. Two CD Copies

SA
GJP



HIGH COURT

DATED:05/12/2025



ORDER

WP(TR).No.5705 of 2017

**ALLOWING THE W.P(TR)
WITHOUT COSTS.**

(10) MT
27/12/25