



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 1946 OF 2025 (S-RES)

BETWEEN:

SRI. P. DIVAKAR
S/O LATE H. PUTTASWAMY
AGED ABOUT 51 YEARS
RESIDING AT NO.676, NIT LAYOUT
2ND PHASE, RAJIV GANDHI NAGAR
BENGALURU-560 097.

...PETITIONER

(BY SRI. SHREERAM T. NAYAK, ADVOCATE)

AND:

1. THE CHAIRMAN
KARNATAKA STATE POLLUTION
CONTROL BOARD, PARISARA BHAVANA
NO.49, CHURCH STEET
BENGALURU-560 001.

2. THE KARNATAKA STATE
POLLUTION CONTROL BOARD
REPRESENTED BY ITS
MEMBER SECRETARY
PARISARA BHAVANA, NO.49
CHURCH STREET
BENGALURU-560 001

...RESPONDENTS

(BY SRI. GURURAJ JOSHI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
OFFICE ORDER BEARING NO.PCB/23/ADA/12/1169 DATED





19.09.2024 AT ANNEXURE-AA ISSUED BY THE FIRST RESPONDENT AS THE SAME IS ILLEGAL, UNJUST AND UNREASONABLE AND DIRECT THE RESPONDENTS TO FORTHWITH REINSTATE THE PETITIONER INTO SERVICE AND GRANTING ALL CONSEQUENTIAL BENEFITS LIKE ARREARS OF SALARY FROM DATE OF TERMINATION FROM SERVICE TO TILL DATE OF REINSTATEMENT ALONG WITH BANK RATE OF INTEREST TO MEET THE ENDS OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

A perusal of the material on record would indicate that the petitioner was appointed as a Law Assistant in the first respondent - Board on 13.07.1998 and continued to work with the first respondent on contract basis upto 04.10.2012 when his services were terminated by the first respondent-Board. Meanwhile, criminal proceedings in Crime No.75/2012 were initiated against the petitioner under the provisions of the Prevention of Corruption Act which were assailed by the petitioner in Crl.P.No.5981/2012 along with Gurumurthy and others in which the petitioner was arrayed as petitioner No.2. The



said petition came to be allowed vide final order dated 18.02.2013 which is extracted as under:

In this petition filed under Section 482 of Cr.P.C., the petitioners arraigned as Accused Nos. 1 to 4 in Crime No.75/2012 of Lokayuktha Police, City Division, Bangalore, for the offences punishable under Sections 7, 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act (for short, 'P.C. Act'), have sought for quashing the FIR and the proceedings thereon principally on the ground that the procedure adopted by the respondent-police in conducting search and seizure without registering the case as required by Section 154 of Cr.P.C. is bad in law and contrary to the law laid down by the Apex Court and this Court in catena of decisions. Having heard the learned counsel appearing on both sides, I see considerable force in this contention. According to the case of the prosecution, Dy.S.P., Lokayuktha, Bangalore, received credible information on 01.09.2012 that corrupt activities are going-on in the office of the Karnataka State Pollution Control Board in the form of officials therein demanding and accepting illegal gratification from the publics for discharging official duties. On receipt of such credible information, the Dy.S.P. along with his staff and panchas, conducted a raid on the said office between 3.15 and 8.15 pm on 01.09.2012. During search, he



noticed cash of Rs.35,000/- in the possession of Accused Nos. 3 & 4, cash of Rs.60,400/- in possession of Accused No.5 , cash of Rs.5,00,000/- in a bag in possession of Accused No.1 and cash of Rs.3,00,000/- in the table drawer of Accused No.2 and since the accused persons did not furnish any satisfactory explanation, the said cash was seized by drawing a detailed mahazar and the accused persons were arrested on the premise that the money found in their possession had been received as illegal gratification for discharging their official duties. Later, on return to the office, the Dy.S.P. submitted a report, based on which the aforesaid case came to be registered and investigation was taken-up.

*2) It is now well-settled law by catena of decisions that the police officer can embark upon the investigation of the case only after registering an FIR as required by Section 154 of Cr.P.C.. This Court in the case of **L.Shankaramurthy and others Vs. State by Lokayuktha Police, City Division, Bangalore Urban Division, Bangalore [2012 (5) Kar.L.J. 545]**, after referring to the principles laid-down by the Apex Court in **State of Haryana and others Vs. Ch. Bjajan Lal and others [AIR 1992 SC 604]**, and few other decisions of the Apex Court, as to the requirement of the registration of the case by the Officer incharge of the Station House whenever an information was laid*



before him and then to proceed for investigation, has observed thus in Paragraphs – 31 to 35:-

"31. It is, therefore, clear from the aforesaid principle laid down by the Apex Court that in respect of a cognizable offence, the officer in charge is duty- bound to reduce the information received by him to writing and then has to register the case and thereafter can proceed with the investigation and he has no other option open to him. Therefore, the police officer in charge is duty bound to comply with the mandatory requirement of Section 154 of the Cr.P.C.

32. In the cases of the present petitioners, there has been no such compliance of the mandatory provision of law as contained in Section 154 of the Cr.P.C. and the seizure panchanama cannot take the place of complaint or information. Thus, it is clear that the procedure followed by the Police Officer concerned is contrary to the mandatory provisions as contained in Section 154 of the Cr.P.C.

33. The scheme of the Cr.P.C. also makes it clear that, Section 157 of the Cr.P.C. gives



power to the police officer to take up investigation only after sending a report to the Magistrate, and power to take cognizance of such offence where the officer concerned, from the information received or otherwise, has reason to suspect the commission of an offence which he is empowered to investigate under Section 156 of the Cr.P.C., he shall follow the requirement of Section 157 before embarking upon the investigation. It is, therefore, clear from the aforesaid provisions of the Cr.P.C. that the police officer concerned cannot proceed with the investigation without first registering the case upon the information received by him.

34. This court, in the case of Mahadevappa has also taken the view that the Lokayuktha police have got suo motu power to initiate proceeding, but in view of Section 157 of the Cr.P.C., the police officer can press the law into motion not only on the basis of the information received by him but also otherwise.

35. In the light of the aforesaid position in the law laid down by the Apex Court in particular in the aforementioned cases, the entire proceeding leading to conducting the seizure panchanama even without registering the cases as required under Section 154 of the Cr.P.C. is



illegal, contrary to law and is in violation of the mandatory provisions of the Cr.P.C. and the act on the part of the police officer concerned is nothing but an act which could be termed as abuse of the process of law.”

3) *The principles laid-down in the aforesaid decisions clearly applies to the facts of this case, since the search and seizure were conducted without registering FIR as required under Section 154 of Cr.P.C and based on the alleged search and seizure, subsequently, the FIR has been registered. In this view of the matter, the FIR registered by the Respondent-Police is illegal and contrary to law, as such liable to be quashed.*

4) *In view of the above, the petition is allowed. The FIR registered in Crime No.75/2012 of Karnataka Lokayuktha, Bangalore Urban Division, Bangalore, against these petitioners and all further actions thereon are hereby quashed.*

2. Subsequently, departmental proceedings were also initiated against the petitioner/accused which culminated in an enquiry report dated 03.09.2018 whereby the enquiry officer came to the conclusion that the charges



levelled against the petitioner were not proved. The same is extracted as hereunder:

ಶ್ರೀ ಕೆ.ಶಿವರಾಂ ನಿವೃತ್ತ ಜಿಲ್ಲಾ ನ್ಯಾಯಾಧೀಶರು ಹಾಗೂ ವಿಚಾರಣಾಧಿಕಾರಿ
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ, ಬೆಂಗಳೂರು.

ಉಲ್ಲೇಖ: ಮಾನಿಮ 23 ಆಡಎ 12/ 3161, ದಿನಾಂಕ: 16-02-2018.

ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರ : ಅಧ್ಯಕ್ಷರು
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ,
ಬೆಂಗಳೂರು.

ಮಂಡನಾಧಿಕಾರಿ : ಶ್ರೀ ಸಿ. ಎಂ. ರಾಜೇಂದ್ರ,
ಸಹಾಯಕ ಆಡಳಿತಾಧಿಕಾರಿ,
ಕ.ರಾ.ಮಾ.ನಿ.ಮಂಡಳಿ, ಕೇಂದ್ರ ಕಛೇರಿ,
ಬೆಂಗಳೂರು.

ಆರೋಪಿತ ನೌಕರರು : ಶ್ರೀ ಪಿ. ದಿವಾಕರ್ ಬಿನ್ ಲೇಟ್
ಹೆಚ್. ಪುಟ್ಟಸ್ವಾಮಿ,
ನಂ.676, 1ನೇ ಮಹಡಿ, ಎನ್.ಟಿ.ಐ.ಲೇಔಟ್,
2ನೇ ಹಂತ, ರಾಜೀವ್‌ಗಾಂಧಿ ನಗರ,
ಬೆಂಗಳೂರು-97.

ವಿಚಾರಣಾ ವರದಿ

ಆರೋಪಿತ ನೌಕರರು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ
ಮಂಡಳಿ, ಕೇಂದ್ರ ಕಛೇರಿ, ಬೆಂಗಳೂರು, ಇಲ್ಲಿ ಗುತ್ತಿಗೆ ಆಧಾರದ ಮೇಲೆ
ಕಾನೂನು ಸಹಾಯಕರಾಗಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು. ಆ ಅವಧಿಯಲ್ಲಿ
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿಯ ವಿವಿಧ ಕಛೇರಿಗಳಲ್ಲಿ ತಮ್ಮ
ಕೆಲಸದ ನಿಮಿತ್ತ ಬರುವ ಸಾರ್ವಜನಿಕರಿಂದ ಲಂಚದ ಹಣಕ್ಕಾಗಿ ಒತ್ತಾಯಿಸುತ್ತಿದ್ದ
ಬಗ್ಗೆ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಛೇರಿಗೆ ದೂರು ಹೋಗಿತ್ತು. ಆ ಬಗ್ಗೆ ತನಿಖೆ



ನಡೆಸಲು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಪೋಲಿಸರು ದಿನಾಂಕ: 01.09.2012 ರಂದು ಮಧ್ಯಾಹ್ನ 03.15 ರಿಂದ ರಾತ್ರಿ 08.15 ರ ವರೆಗೆ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿಯ ಕೇಂದ್ರ ಕಛೇರಿಯನ್ನು ಶೋಧನೆ ಮಾಡಿದಾಗ ಆರೋಪಿತ ನೌಕರರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ನಲ್ಲಿ ರೂ.3,00,000/- ನಗದು ಹಣ ದೊರೆಯಿತು. ಆ ಬಗ್ಗೆ ಆರೋಪಿತ ನೌಕರರನ್ನು ವಿಚಾರಿಸಲಾಗಿ, ಅವರು ಸಮಂಜಸವಾದ ಉತ್ತರವನ್ನು ಕೊಡಲಿಲ್ಲ. ಅವರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ನಲ್ಲಿ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿ ಅನಧಿಕೃತ ಹಣ ಇದ್ದುದು ದೃಢಪಟ್ಟಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಆರೋಪಿತ ನೌಕರರ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯಲ್ಲಿ ಸಂಶಯ ಕಂಡುಬಂದಿದ್ದು, ಅವರು ಗುತ್ತಿಗೆ ಸೇವೆಯ ಷರತ್ತು ಮತ್ತು ನಿಬಂಧನೆಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆ ಎಂಬುದಾಗಿ ಅಪಾದಿಸಿ ಆರೋಪಿತ ನೌಕರರಿಗೆ ದಿನಾಂಕ 25.04.2018 ರಂದು ಸಂಖ್ಯೆ: ಮಾನಿಮ/23/ಆಡಎ/12/2017-18/113 ರ ರೀತ್ಯಾ ದೋಷಾರೋಪಣಾಪಟ್ಟಿ ಜಾರಿಮಾಡಲಾಗಿತ್ತು. ಅವರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ತೀರ್ಮಾನಿಸಿ ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಆದೇಶದಂತೆ ನನ್ನನ್ನು ವಿಚಾರಣಾಧಿಕಾರಿಯನ್ನಾಗಿ ಶ್ರೀ ಸಿ.ಎಂ. ರಾಜೇಂದ್ರ, ಸಹಾಯಕ ಆಡಳಿತಾಧಿಕಾರಿ, ಕೇಂದ್ರ ಕಛೇರಿ, ಕ.ರಾ.ಮಾ.ನಿ.ಮಂಡಳಿ ರವರನ್ನು ಮಂಡನಾಧಿಕಾರಿಯನ್ನಾಗಿ ನೇಮಕ ಮಾಡಿ ಆದೇಶ ಹೊರಡಿಸಲಾಗಿದೆ.

ಆರೋಪಿತ ನೌಕರರಿಗೂ ಹಾಗೂ ಮಂಡನಾಧಿಕಾರಿಗೂ ನೋಟೀಸ್ ಕಳುಹಿಸಲಾಗಿತ್ತು. ಮಂಡನಾಧಿಕಾರಿ ಹಾಗೂ ಆರೋಪಿತ ನೌಕರರು ನನ್ನ ಮುಂದೆ ಹಾಜರಾದರು. ಆರೋಪಿತ ನೌಕರರ ಪ್ರಾಥಮಿಕ ಹೇಳಿಕೆಯನ್ನು ದಾಖಲು ಮಾಡಿಕೊಳ್ಳಲಾಯಿತು. ಆರೋಪಿತ ನೌಕರರು ಅವರ ವಿರುದ್ಧ ಮಾಡಲಾಗಿರುವ ಆಪಾದನೆಯನ್ನು ನಿರಾಕರಿಸಿ, ವಿಚಾರಣೆ ನಡೆಸಬೇಕೆಂದು ಕೋರಿದ್ದುದರ ಮೇರೆಗೆ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರದ ಪರ ಸಾಕ್ಷಿಗಳ ವಿಚಾರಣೆಗಾಗಿ ಪ್ರಕರಣವನ್ನು ಮುಂದೂಡಲಾಗಿತ್ತು. ಮಂಡನಾಧಿಕಾರಿಯು ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರದ ಪರವಾಗಿ ಶ್ರೀ ಲೋಕೇಶ್ ಹೆಚ್.ಕೆ. ರವರನ್ನು ಸಾಕ್ಷಿ-1 ಎಂಬುದಾಗಿ ವಿಚಾರಣೆ ಮಾಡಿ ನಿಶಾನೆ ಪಿ-1 ನ್ನು ಗುರುತಿಸಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರದ ಪರ ವಿಚಾರಣೆಯನ್ನು



HC-KAR

NC: 2026:KHC:21947
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ಮುಕ್ತಾಯಗೊಳಿಸಿದರು. ಆರೋಪಿತ ನೌಕರರು ತನ್ನನ್ನು ತಾನು ಸಾಕ್ಷಿಯಾಗಿ ವಿಚಾರಣೆ ಮಾಡಿಕೊಂಡು ಅವರ ಪರ ವಿಚಾರಣೆಯನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಿದರು. ಮಂಡನಾಧಿಕಾರಿ ಹಾಗೂ ಆರೋಪಿತ ನೌಕರರ ವಾದವನ್ನು ಕೇಳಲಾಯಿತು.

ಸಾಕ್ಷಿ:- ಶ್ರೀ ಹೆಚ್.ಕೆ. ಲೋಕೇಶ್, ರವರು ತಮ್ಮ ಸಾಕ್ಷ್ಯದಲ್ಲಿ "ಸೆಪ್ಟೆಂಬರ್ -2010 ರಿಂದ ಸೆಪ್ಟೆಂಬರ್-2012 ರವರೆಗೆ ನಾನು ಕೇಂದ್ರ ಕಛೇರಿಯಲ್ಲಿ ಉಪ ಪರಿಸರ ಅಧಿಕಾರಿಯಾಗಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದೆ. ದಿನಾಂಕ: 01.09.2012 ರಂದು ಲೋಕಾಯುಕ್ತ ಅಧಿಕಾರಿಗಳು ಕೇಂದ್ರ ಕಛೇರಿಗೆ ಭೇಟಿ ಕೊಟ್ಟು ಪರಿಶೀಲನೆ ಮಾಡಿದರು. ಮೊದಲನೆಯದಾಗಿ ಅವರು ಐದನೇ ಮಹಡಿಗೇ ಭೇಟಿ ಕೊಟ್ಟು ಅಲ್ಲಿ ನನ್ನನ್ನೂ ಒಳಗೊಂಡಂತೆ ಬೇರೆ ಅಧಿಕಾರಿಗಳನ್ನು ತಪಾಸಣೆ ಮಾಡಿ ನಂತರ ನಾಲ್ಕನೇ ಮಹಡಿಯಲ್ಲಿರುವ ಕಛೇರಿಗಳನ್ನು ತಪಾಸಣೆ ಮಾಡಿದರು. ಇತರೆ ಅಧಿಕಾರಿಗಳನ್ನು ತಪಾಸಣೆ ಮಾಡಿದ ನಂತರ ಆರೋಪಿತ ಅಧಿಕಾರಿಯ ಕೊಠಡಿಗೆ ಬಂದರು. ಆ ಸಮಯದಲ್ಲಿ ಆರೋಪಿತ ಅಧಿಕಾರಿಯು ಕೊಠಡಿಯಲ್ಲಿ ಇರಲಿಲ್ಲ. ಪಕ್ಕದ ಕೊಠಡಿಯಿಂದ ಅವರನ್ನು ಕರೆದುಕೊಂಡು ಬಂದು ಅವರ ಕೊಠಡಿಯನ್ನು ತಪಾಸಣೆ ಮಾಡಿದಾಗ ಆರೋಪಿತ ಅಧಿಕಾರಿಯ ಬಳಿ ಮೂರು ನೂರ ನಲವತ್ತು ರುಪಾಯಿಗಳ ನಗದು ಹಣ ಇತ್ತು. ಅದನ್ನು ಅವರಿಗೆ ಹಿಂದಿರುಗಿಸಲಾಯಿತು. ಅವರ ಕಛೇರಿಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಒಂದು ಕಪ್ಪು ಬಣ್ಣದ ಬ್ಯಾಗ್ ದೊರೆಯಿತು. ಅದರಲ್ಲಿ ಐದು ಲಕ್ಷ ರುಪಾಯಿ ನಗದು ಹಣ ಇತ್ತು. ಅದನ್ನು ಲೋಕಾಯುಕ್ತ ಅಧಿಕಾರಿಗಳು ವಶಪಡಿಸಿಕೊಂಡು ಮಹಜರ್ ಬರೆದರು. ಅದು ನಿಶಾನೆ ಪಿ-1 ರಲ್ಲಿದೆ. ನನ್ನ ಸಹಿ ನಿಶಾನೆ ಪಿ-1 (ಎ) ರಲ್ಲಿ ಇದೆ" ಎಂಬುದಾಗಿ ಹೇಳಿದ್ದಾರೆ.

ನಿಶಾನೆ ಪಿ-1 ದಿನಾಂಕ: 01.09.2012 ರಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಬರೆದಿರುವ ಪಂಚನಾಮೆ, ಅದರಲ್ಲಿ ಆರೋಪಿತ ಅಧಿಕಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಇರುವ ಒಕ್ಕಣೆ ಕಳಕಂಡಂತಿದೆ.



“4ನೇ ಮಹಡಿಯಲ್ಲಿ ಕಛೇರಿಯನ್ನು ಹೊಂದಿರುವ ಔಟ್ ಸೋರ್ಸ್ ವರ್ಕರ್ ದಿವಾಕರ್ ಎಂಬುವವರು ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಪಾರ್ಕಿಂಗ್ ಸ್ಥಳದ ಟೇಬಲ್ ಡ್ರಾಯರ್‌ನಲ್ಲಿ ಒಂದು ಅರಿಶಿನ ಬಣ್ಣದ ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್ ದೊರೆತಿದ್ದು, ಇದರಲ್ಲಿ ನಗದು ಹಣ ರೂ. 3,00,000/- ದೊರೆತಿದ್ದು, ಈ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದಾಗ, ಸದರಿಯವರು ತನ್ನ ಗಮನಕ್ಕೆ ತಾರದೆ ಯಾರೋ ಹಣ ಇಟ್ಟಿರುವುದಾಗಿ ಇದರ ಬಗ್ಗೆ ತನಗೆ ಗೊತ್ತಿಲ್ಲವೆಂಬುದಾಗಿ ತಿಳಿಸಿದ್ದರಿಂದ ಸದರಿ ಹಣವನ್ನು ಮುಂದಿನ ತನಿಖೆಗಾಗಿ ಅಮಾನತ್ತು ಪಡಿಸಲಾಗಿದೆ” ಎಂಬುದಾಗಿ ಉಲ್ಲೇಖವಿದೆ.

ಈ ಸಾಕ್ಷ್ಯಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಆರೋಪಿತ ನೌಕರರು ತಮ್ಮ ಸಾಕ್ಷ್ಯದಲ್ಲಿ “ಮೇ 1998 ರಿಂದ ಸೆಪ್ಟೆಂಬರ್ 2012 ರವರೆಗೆ ನಾನು ಕೇಂದ್ರ ಕಛೇರಿಯಲ್ಲಿ ಕಾನೂನು ಸಹಾಯಕರಾಗಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದೆ. ದಿನಾಂಕ: 01.09.2012 ರಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿಯ ಕೇಂದ್ರ ಕಛೇರಿಗೆ ಭೇಟಿ ಕೊಟ್ಟು ಪರಿಶೀಲನೆ ಮಾಡಿದರು. ನಾನು ನಾಲ್ಕನೇ ಮಹಡಿಯಲ್ಲಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದೆ, ಐದನೇ ಮಹಡಿಯಲ್ಲಿದ್ದ ಕಾನೂನು ಅಧಿಕಾರಿಯ ಬಳಿಗೆ ಸಹಿ ಪಡಿಯಲು ಹೋಗಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ನಾನು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾರ್ಯ ಸ್ಥಳಕ್ಕೆ ಬಂದಿದ್ದರು. ನಾನು ಹಿಂತಿರುಗಿ ಬಂದ ನಂತರ ನನ್ನ ಅಂಗ ಶೋಧನೆ ಮಾಡಿದಾಗ ಅವರಿಗೆ ನನ್ನ ಬಳಿ ನಾಲ್ಕು ನೂರು ರೂಪಾಯಿಗಳು ದೊರೆತವು. ನನ್ನ ಮೇಜಿನ ಡ್ರಾಯರ್ ಅನ್ನು ತೆರೆದಾಗ ಅದರಲ್ಲಿ ಒಂದು ಕವರ್‌ನಲ್ಲಿ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿಗಳು ಇದೆ ಎಂಬುದಾಗಿ ತಿಳಿಸಿದರು. ನನ್ನ ಮೇಜಿಗೆ ಬೀಗ ಹಾಕುವ ವ್ಯವಸ್ಥೆ ಇರಲಿಲ್ಲ. ಮೇಜಿನ ಡ್ರಾಯರ್ ನಲ್ಲಿ ದೊರೆತ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿಗಳ ಬಗ್ಗೆ ನನ್ನ ವಿವರಣೆ ಕೇಳಿದರು. ಆ ಹಣ ನನಗೆ ಸಂಬಂಧಿಸಿದ್ದಲ್ಲ, ಅದು ಹೇಗೆ ಬಂತು ಎಂಬುದು ಗೊತ್ತಿಲ್ಲ ಎಂದು ತಿಳಿಸಿದೆ. ಅದೇ ರೀತಿ ಹೇಳಿಕೆ ಬರೆದು ಕೊಟ್ಟೆ. ಪೊಲೀಸರು ಹಣವನ್ನು ಅಮಾನತ್ತು ಪಡಿಸಿದರು. ಲೋಕಾಯುಕ್ತ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಅಮಾನತ್ತು ಪಡಿಸಿದ್ದ ಹಣವನ್ನು ನಾನು ಹಿಂದಿರುಗಿಸುವಂತೆ



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ಮನವಿ ಸಲ್ಲಿಸುವುದಿಲ್ಲ ಎಂದು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಬರೆದು ಕೊಟ್ಟಿ " ಎಂಬುದಾಗಿ ಹೇಳಿದ್ದಾರೆ.

ದಿನಾಂಕ: 01.09.2012 ರಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿಯ ಕೇಂದ್ರ ಕಛೇರಿಯಲ್ಲಿ ತಪಾಸಣೆ ಮಾಡಿದ ಸಂದರ್ಭದಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರ ಕಾರ್ಯಸ್ಥಳದ ಟೇಬಲ್ ಡ್ರಾಯರ್ ನಲ್ಲಿ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿ ಹಣ ಇದ್ದ ಒಂದು ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್ ಇತ್ತು. ಆ ಹಣವನ್ನು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಅಮಾನತ್ತು ಪಡಿಸಿದರು ಎಂಬ ಸಂಗತಿಯನ್ನು ಆರೋಪಿತ ನೌಕರರು ಒಪ್ಪಿಕೊಂಡಿದ್ದಾರೆ. ಕವರ್‌ನಲ್ಲಿದ್ದ ಹಣ ಆರೋಪಿತ ನೌಕರರಿಗೆ ಸೇರಿತ್ತೇ ಅಥವಾ ಇಲ್ಲವೇ? ಎಂಬುದಷ್ಟೆ ನಿರ್ಣಯಿಸಬೇಕಾದ ಸಂಗತಿ. ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಆರೋಪಿತ ನೌಕರರ ಕಾರ್ಯ ಸ್ಥಳದಲ್ಲಿ ಇದ್ದ ಕವರ್ ಅನ್ನು ಅಮಾನತ್ತು ಪಡಿಸಿದ ಸಂದರ್ಭದಲ್ಲಿ ಅದರಲ್ಲಿ 3 ಲಕ್ಷ ರೂಪಾಯಿ ಹಣ ದೊರೆತಿದೆ. ಲೋಕಾಯುಕ್ತರ ಪೊಲೀಸರ ಮುಂದೆ ಆರೋಪಿತ ನೌಕರರು ತನ್ನ ಗಮನಕ್ಕೆ ತಾರದೆ ಯಾರೋ ಹಣ ಇಟ್ಟಿರುವುದಾಗಿ, ಅದರ ಬಗ್ಗೆ ತನಗೆ ಗೊತ್ತಿಲ್ಲವೆಂದು ತಿಳಿಸಿದ್ದಾರೆ. ಆರೋಪಿತ ನೌಕರರು ತನ್ನ ಸಾಕ್ಷ್ಯದಲ್ಲಿ ಮೇಲ್ಕಂಡ ಹಣ ನನಗೆ ಸಂಬಂಧಿಸಿದಲ್ಲ. ಲೋಕಾಯುಕ್ತ ನ್ಯಾಯಾಲಯದಲ್ಲಿ, ಅಮಾನತ್ತು ಪಡಿಸಿದ್ದ ಹಣವನ್ನು ಹಿಂತಿರುಗಿಸುವಂತೆ ಮನವಿ ಸಲ್ಲಿಸುವುದಿಲ್ಲ ಎಂದು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಬರೆದುಕೊಟ್ಟಿ ಎಂಬುದಾಗಿ ಹೇಳಿದ್ದಾರೆ.

ಆರೋಪಿತ ನೌಕರರು ಕಾನೂನು ಸಹಾಯಕನಾಗಿ ಕಾನೂನು ಅಧಿಕಾರಿಯ ಆಧೀನದಲ್ಲಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು. ಕಾನೂನು ವಿಭಾಗಕ್ಕೆ ಬಂದ ಕಡತಗಳನ್ನು ಮತ್ತು ಪತ್ರವ್ಯವಹಾರಗಳನ್ನು ಕಾನೂನು ಅಧಿಕಾರಿಯ ಮುಂದೆ ಮಂಡಿಸುವುದು ಅವರ ಕರ್ತವ್ಯವಾಗಿತ್ತು. ಅವರಿಗೆ ಸ್ವತಂತ್ರವಾಗಿ ತೀರ್ಮಾನ ಕೈಗೊಳ್ಳುವ ಅಧಿಕಾರ ಇರಲಿಲ್ಲ. ಸಂದರ್ಭ ಹೀಗಿರುವಾಗ ಆರೋಪಿತ ನೌಕರರಿಗೆ



ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿಯಷ್ಟು ಹೆಚ್ಚು ಮೊತ್ತದ ಹಣವನ್ನು ಲಂಚವಾಗಿ ಸ್ವೀಕರಿಸುವ ಅವಕಾಶ ಇರಲಿಲ್ಲ.

ಆರೋಪಿತ ನೌಕರರು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾರ್ಯಸ್ಥಳ ಪಾರ್ಟಿಷನ್ ಸ್ಥಳವಾಗಿತ್ತು. ಸದರಿ ಕಾರ್ಯಸ್ಥಳಕ್ಕೆ ಮಂಡಳಿಯ ಇತರೆ ನೌಕರರು ಹೋಗಿ ಬರಲು ಅವಕಾಶ ಇತ್ತು. ಅವರ ಟೇಬಲ್‌ಗೆ ಬೀಗ ಹಾಕುವ ವ್ಯವಸ್ಥೆ ಇರಲಿಲ್ಲ ಎಂಬುದಾಗಿ ಆರೋಪಿತ ನೌಕರರು ಹೇಳಿದ್ದಾರೆ. ಟೇಬಲ್‌ಗೆ ಬೀಗ ಹಾಕುವ ವ್ಯವಸ್ಥೆ ಇದ್ದರೂ ಸಹ ಸಾಮಾನ್ಯವಾಗಿ ನೌಕರರು ಕಛೇರಿಗೆ ಬಂದ ಕೂಡಲೇ ಡ್ರಾಯರ್‌ನ ಬೀಗ ತೆರೆದು ಕಛೇರಿಯ ಪೇಳಿ ಮುಗಿದ ನಂತರ ಅದಕ್ಕೆ ಬೀಗ ಹಾಕಿ ಹೋಗುವ ವ್ಯವಸ್ಥೆಯನ್ನು ರೂಢಿಸಿಕೊಂಡಿರುತ್ತಾರೆ. ಲೋಕಾಯುಕ್ತ ಅಧಿಕಾರಿಗಳು ಆರೋಪಿತ ನೌಕರರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ಅನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಅದಕ್ಕೆ ಬೀಗ ಹಾಕಿರಲಿಲ್ಲ. ಹಣ ದೊರೆತ ಸಂದರ್ಭದಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರು ಅವರ ಕಾರ್ಯಸ್ಥಳದಲ್ಲಿ ಇದ್ದುದನ್ನು ನಾನು ಗಮನಿಸಿಲ್ಲ ಎಂಬುದಾಗಿ ಸಾಕ್ಷಿ-1 ರವರು ತನ್ನ ಸಾಕ್ಷ್ಯದಲ್ಲಿ ಹೇಳಿದ್ದಾರೆ. ಆರೋಪಿತ ನೌಕರರು ತನ್ನ ಸಾಕ್ಷ್ಯದಲ್ಲಿ ಐದನೇ ಮಹಡಿಯಲ್ಲಿದ್ದ ಕಾನೂನು ಅಧಿಕಾರಿಯ ಬಳಿಗೆ ಸಹಿ ಪಡೆಯಲು ಹೋಗಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ನಾನು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾರ್ಯಸ್ಥಳಕ್ಕೆ ಬಂದಿದ್ದರು. ನಾನು ಹಿಂತಿರುಗಿ ಬಂದ ನಂತರ ನನ್ನ ಅಂಗ ಶೋಧನೆ ಮಾಡಿದಾಗ ಅವರಿಗೆ ನನ್ನ ಬಳಿ ನಾಲ್ಕು ನೂರು ರೂಪಾಯಿಗಳು ದೊರೆತವು. ನನ್ನ ಮೇಜಿನ ಡ್ರಾಯರ್ ಅನ್ನು ತೆರೆದಾಗ ಅದರಲ್ಲಿ ಒಂದು ಕವರ್‌ನಲ್ಲಿ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿಗಳು ಇದ್ದವು ಎಂಬುದಾಗಿ ತಿಳಿಸಿದರು ಎಂಬುದಾಗಿ ಹೇಳಿದ್ದಾರೆ. ಲಭ್ಯವಿರುವ ಸಾಕ್ಷ್ಯದಿಂದ ಆರೋಪಿತ ನೌಕರರ ಟೇಬಲ್ ಅನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಮತ್ತು ಡ್ರಾಯರ್‌ನಲ್ಲಿದ್ದ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿಗಳನ್ನು ವಶಪಡಿಸಿಕೊಂಡ ಸಂದರ್ಭದಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರು ಅವರ ಕಾರ್ಯ ಸ್ಥಳದಲ್ಲಿ ಇರಲಿಲ್ಲ ಎಂಬುದು ಸ್ಪಷ್ಟವಾಗುತ್ತದೆ. ಆರೋಪಿತ ನೌಕರರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ನಲ್ಲಿ ದೊರೆತ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿ ಹಣ ಅವರಿಗೆ ಸೇರಿದ್ದುದಾಗಿದ್ದರೆ, ಅವರು ಕಾರ್ಯಸ್ಥಳದಿಂದ ಹೊರಗೆ ಹೋಗುವಾಗ ಟೇಬಲ್ ಡ್ರಾಯರ್‌ಗೆ ಬೀಗ



HC-KAR

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ಹಾಕುತ್ತಿದ್ದರು ಇಲ್ಲವೇ ಹಣವನ್ನು ತಮ್ಮ ಜೊತೆಯಲ್ಲಿ ಕೊಂಡೊಯ್ಯುತ್ತಿದ್ದರು. ಅವರ ಟೇಬಲ್‌ಗೆ ಬೀಗ ಹಾಕುವ ವ್ಯವಸ್ಥೆ ಇಲ್ಲದಿದ್ದರೆ, ಆ ಹಣವನ್ನು ಟೇಬಲ್ ಡ್ರಾಯರ್‌ನಲ್ಲಿ ಇಡುತ್ತಿರಲಿಲ್ಲ. ಆರೋಪಿತ ನೌಕರರು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಕಾರ್ಯಸ್ಥಳಕ್ಕೆ ಮಂಡಳಿಯ ಇತರ ಅಧಿಕಾರಿಗಳು ಅಥವಾ ನೌಕರರು ಹೋಗಬಹುದಾದ ಅವಕಾಶ ಇದ್ದುದರಿಂದ ಮಂಡಳಿಯ ಇತರ ಅಧಿಕಾರಿಗಳಾಗಲೀ ಅಥವಾ ನೌಕರರಾಗಲೀ ತಾವು ಪಡೆದಿದ್ದ ಹಣವನ್ನು, ಆರೋಪಿತ ನೌಕರರ ಹುದ್ದೆ ಲಂಚ ಸ್ವೀಕರಿಸಲು ಅವಕಾಶವಿಲ್ಲದ ಹುದ್ದೆ, ಅವರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ಅನ್ನು ಲೋಕಾಯುಕ್ತ ಅಧಿಕಾರಿಗಳು ಪರಿಶೀಲಿಸುವ ಅವಕಾಶ ಕಡಿಮೆ ಎಂದು ಭಾವಿಸಿ ಅವರ ಟೇಬಲ್ ಡ್ರಾಯರ್‌ನಲ್ಲಿ ಹಣ ಇಟ್ಟಿರುವ ಸಾಧ್ಯತೆಯನ್ನು ತಳ್ಳಿಹಾಕಲಾಗುವುದಿಲ್ಲ. ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ವಶಪಡಿಸಿಕೊಂಡಿರುವ ಹಣ ತನಗೆ ಸೇರಿದ್ದಲ್ಲವೆಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರ ಮುಂದೆ ಹಾಗೂ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಆರೋಪಿತ ನೌಕರರು ಹೇಳಿದ್ದಾರೆ. ಅಮಾನತ್ತು ಪಡಿಸಿರುವ ಹಣವನ್ನು ಹಿಂದಕ್ಕೆ ಪಡೆಯುವುದಿಲ್ಲ ಎಂಬುದಾಗಿ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಬರೆದುಕೊಟ್ಟಿದ್ದಾರೆ. ಈ ಎಲ್ಲಾ ಸಂಗತಿಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ವಶಪಡಿಸಿಕೊಂಡಿರುವ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿ ಹಣಕ್ಕೂ ಆರೋಪಿತ ನೌಕರರಿಗೂ ಯಾವುದೇ ಸಂಬಂಧವಿಲ್ಲ ಎಂದು ಕಂಡು ಬರುತ್ತದೆ.

ಅವರ ಟೇಬಲ್ ಡ್ರಾಯರ್ ನಲ್ಲಿ ದೊರೆತ ಮೂರು ಲಕ್ಷ ರೂಪಾಯಿ ಹಣದ ಬಗ್ಗೆ ಆರೋಪಿತ ನೌಕರರು ಸಮಂಜಸವಾದ ಉತ್ತರವನ್ನು ನೀಡಿರುವುದಿಲ್ಲ, ಆದ್ದರಿಂದ ಆ ಹಣ ಅನಧಿಕೃತವಾದ ಹಣ ಎಂದು ಭಾವಿಸಲು ಸಕಾರಣಗಳಿಲ್ಲ. ಆರೋಪಿತ ನೌಕರರ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯಲ್ಲಿ ಸಂಶಯ ಪಡುವಂತಹ ಅಂಶಗಳಾವುವು ಕಂಡು ಬರುತ್ತಿಲ್ಲ. ಹೀಗಿರುವಾಗ ಆರೋಪಿತ ನೌಕರರು ಗುತ್ತಿಗೆ ಸೇವೆಯ ಷರತ್ತು ಮತ್ತು ನಿಬಂಧನೆಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆ ಎಂದು ಅಭಿಪ್ರಾಯ ಪಡಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ.



ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದ ಆರೋಪಿತ ನೌಕರರ ವಿರುದ್ಧ
ಮಾಡಲಾಗಿರುವ ಆಪಾದನೆ ರುಜುವಾತಾಗಿಲ್ಲ ಎಂದು ಅಭಿಪ್ರಾಯ ಪಡುತ್ತೇನೆ.

ದಿನಾಂಕ: 03.09.2018

ಬೆಂಗಳೂರು

ವಿಚಾರಣಾಧಿಕಾರಿ

3. It is also a matter of record that there were several proceedings before this Court in which all the respondents were directed to take steps to reinstate the petitioner after completion of the departmental enquiry and it is the grievance of the petitioner that despite the criminal proceedings and the departmental enquiry having culminated in favour of the petitioner and the earlier round of litigation in W.A.No.205/2016, W.P.7888/2020, W.P.No.895/2021 and W.P.No.13993/2024, the respondents have once again refused to reinstate the petitioner into service and instead issued the impugned order at Annexure-AA dated 19.02.2024, aggrieved by which the petitioner is before this Court by way of the present petition.



4. As stated supra, in the earlier round of litigation in W.P.No.8974/2014 c/w W.P.No.33161/2013 this Court vide final order dated 26.11.2015 has held as under:

The petitioner was appointed as Law Assistant on 13.7.1998 in the service of the first respondent Karnataka State Pollution Control Board. The Karnataka Lokayuktha conducted the search operations in the office of the first respondent Board on receiving the information from credible sources that the officials there are indulging in corruption. In the drawer of the table of the petitioner in the office, `3 lakhs were found. This culminated in the removal of the petitioner from the first respondent's service on 4.10.2012. On the technical ground of the search operations not being preceded by the registration of the complaint, this Court, by its order, dated 18.2.2013 passed in Crl.P.No.5981/2012 quashed the criminal proceedings (Crime No.75/2012 of the Karnataka Lokayuktha). On the quashing of the proceedings, the petitioner represented to the first respondent to take him back into its services. As his representations were not evoking any response from the first respondent, he has filed W.P.No.33161/2013 seeking, inter alia, mandamus to the first respondent to reinstate him to his original post. During the pendency of the said petition, the respondent No.1



issued the order, dated 31.8.2013 (Annexure-H) reinstating the petitioner on contract basis and calling upon him to report himself for duties at its Regional Office in Gulbarga. On the petitioner going to the first respondent's Office at Gulbarga, he is given the endorsement, dated 13.2.2014 (Annexure-Q) to the effect that the Head Office has informed the Regional Office that the petitioner is removed from service and that the petitioner may contact the Head Office.

2. Thereafter the respondent No.1 issued the recruitment notification calling for the applications for the posts of Law Assistants on 12.2.2013. The respondent Nos.4 and 5 came to be appointed pursuant to the said notification. The respondent No.1 published the provisional select list calling for the objections to the same. The recruitment notification, dated 12.2.2013 and the publication, dated 13.2.2014 of the select list are challenged by the petitioner by filing W.P.No.8974/2014.

3. Sri C. Shankar Reddy, the learned counsel for the petitioner submits that on the quashing of the criminal proceedings, the petitioner is entitled to be reinstated to the same post, which he had as on the date of the search and seizure operations conducted by the Lokayuktha. He submits that the respondent No.1 has erred in not withdrawing the removal order



even after the quashing of the criminal proceedings against the petitioner. He also complains of the discrimination. He submits that other three accused, whose Chambers/Offices were also searched and the amounts were found, are allowed to go scot-free. He submits that they are reinstated because they happen to be the permanent employees of the respondent No.1.

4. Sri Shankar Reddy submits that the petitioner has also responded to the advertisement notification at Annexure-M. Only because of the seizure operations by the Lokayuktha, the petitioner's candidature is not considered and he is not selected for the post in question. He submits that the appointment of the respondent Nos.4 and 5 itself is subject to the outcome of writ petition. Without prejudice to this submission, he contends that the petitioner could also be reinstated as against the available sanctioned posts without affecting the cases of the respondent Nos.4 and 5. He submits that this Court, by its interim direction issued on 21.1.2015, had directed the first respondent's counsel to get the instructions on the availability position of the Law Assistant's posts.

5. Sri S.G.Kulkarni, the learned counsel for the respondent No.1 in W.P.No.33161/2013 submits that the said petition has become infructuous. Nothing



survives for consideration of the said writ petition, as the writ petition is only for the issuance of mandamus to reinstate the petitioner pursuant to the order, dated 31.8.2013 (Annexure-H in W.P.No.8974/2014). He submits that if the petitioner did not report himself for duty at Gulbarga for six months, then the first respondent cannot be blamed for the same. He submits that the petitioner has no vested right that he be reinstated, as his was only a contractual arrangement.

6. Sri Nagaprasanna, the learned counsel for the respondent No.4 in W.P.No.8974/2014 submits that the respondent No.4 is lawfully appointed based on his participation and performance in direct recruitment process.

7. In the course of rejoinder, Sri Shankar Reddy submits that the petitioner was informed of the issuance of the reinstatement order, dated 31.8.2013 only on 16.1.2014 on the filing of the objections by the respondent No.1 in the writ petition. He submits that within no time, that is on 12.2.2014 itself the petitioner went to report himself for duty at Regional Office at Gulbarga.

8. On being asked as to why no domestic enquiry is ordered as against the other three accused persons and why they are reinstated without holding



an enquiry and without their coming out clean on the allegations, Sri S.G.Kulkarni submits that he has no instructions in the matter.

9. Smt. Prathima Honnapura, the learned High Court Government Pleader appearing for the respondent No.3 in W.P.No.8974/2014 submits that the Government will write to the first respondent to initiate the necessary enquiry against the petitioner and the other three accused persons.

10. I notice with concern that huge amounts of `3 lakhs were found in the drawer of the petitioner's table in the first respondent's Office when the Lokayuktha Police conducted the search operations. Further, cash of `35,000/- was in the possession of the two officials. `60,400/- in the office of one official and `5 lakhs in the bag in the possession of another official. Criminal proceedings may have been quashed on a technical violation of a Rule but that does not mean the first respondent cannot even hold the domestic enquiry. For the reasons best known to the Management of the first respondent Board, no disciplinary proceedings whatsoever are initiated. Way back in 1998 itself the Apex Court has held that the corruption-free Government is one of the fundamental rights of the citizens. It has this to say in paragraph No.55 of its decision in the case of



*VINEET NARAIN AND OTHERS v. UNION OF INDIA
AND ANOTHER reported in (1998) 1 SCC 226:*

"55. These principles of public life are of general application in every democracy and one is expected to bear them in mind while scrutinising the conduct of every holder of a public office. It is trite that the holders of public offices are entrusted with certain powers to be exercised in public interest alone and, therefore, the office is held by them in trust for the people. Any deviation from the path of rectitude by any of them amounts to a breach of trust and must be severely dealt with instead of being pushed under the carpet. If the conduct amounts to an offence, it must be promptly investigated and the offender against whom a prima facie case is made out should be prosecuted expeditiously so that the majesty of law is upheld and the rule of law vindicated. It is the duty of the judiciary to enforce the rule of law and, therefore, to guard against erosion of the rule of law."

11. It is also profitable to refer to the Apex Court's judgment in the case of SUBRAMANIAN SWAMY v. MANMOHAN SINGH AND ANOTHER reported in (2012) 3 SCC 64. Paragraph No.68 of the said decision is extracted hereinbelow:

"68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the



concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our Preamble vision. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. That is to say in a situation where two constructions are eminently reasonable, the court has to accept the one that seeks to eradicate corruption to the one which seeks to perpetuate it."

12. No provision in the initial contract appointment order is pointed out to show that the petitioner has any vested right to be in the services of the respondent No.1. Merely because the criminal proceedings are quashed, his right to reinstatement into the services of the first respondent does not automatically revive itself. It is for the respondent No.1 to hold the enquiry in accordance with law into the charge or allegation of the finding of `3lakhs in the drawer of the table of the petitioner in the first respondent's Office. If the petitioner comes out clean on that, it is then that the respondent No.1 may consider reinstating him. On the strength of the first respondent's order, dated 31.8.2013 for reinstating him, no positive direction can be given to the respondent No.1 to take him back into its service.



13. Further, the validity of recruitment notification and the select list cannot be examined at the instance of the petitioner, whose rights are still nebulous.

14. As far as the petitioner's alternative prayer for appointing afresh as against the available sanctioned post is concerned, it is again for the respondent No.1 to hold the enquiry and satisfy itself that the charge is not proved and thereafter take a decision in the matter.

15. The submission of the learned Government Pleader that the Government will write to the first respondent Board for initiating the necessary enquiry against the persons in whose possession large chunks of money are found, is placed on record."

5. In W.A.No.205/2016 filed by the petitioner against the order passed in W.P.No.33161/2013, the Division Bench of this Court vide order dated 15.11.2016 has held as hereunder:

The appeal is barred by limitation. The delay is of 6 days.

2. This is an appeal against the judgment and order dated November 26, 2015, passed by the Hon'ble Single Judge disposing of the writ petition and



permitting the authorities to initiate a disciplinary proceeding against the delinquent employee.

3. The writ petitioner was employed in the Pollution Control Board on contract basis. It is alleged that Rs.3,00,000/- (Rupees three lakhs) only, was discovered from his drawer. A criminal proceeding was initiated against him by the Hon'ble Lokayuktha. However, the criminal proceeding has been quashed up to the Supreme Court of India. An order of reinstatement was followed, but, the authorities decided, in their wisdom, to initiate disciplinary proceeding against the delinquent employee. Consequently, the order of reinstatement was recalled.

4. Two writ petitions were filed. One, seeking for reinstatement and the other challenging recalling of the order of reinstatement.

5. Both the writ petitions were heard together. The Hon'ble Single Judge thought, having regard to the nature of allegations against the writ petitioner, that there must be a full-fledged disciplinary enquiry.

6. Mr.Shankar Reddy C., learned advocate appearing for the appellant, submits that when the criminal proceeding was quashed up to the Supreme Court of India, there was no occasion for the



authorities not to reinstate the writ petitioner or to initiate disciplinary proceeding against the writ petitioner.

7. The standards of proof in the criminal case and the disciplinary proceeding are different. Even if the criminal proceeding is quashed, the authorities are entitled to initiate disciplinary proceeding.

8. The Hon'ble Single Judge, in our view, rightly granted liberty to initiate disciplinary proceeding against the delinquent employee. We do not find any error in the order impugned.

9. Therefore, the application for condonation of delay in filing the appeal is dismissed. Consequently, the appeal is, also, dismissed.

10. We, however, take this opportunity to direct the Pollution Control Board to complete the enquiry against the delinquent employee within a period of six months, peremptorily. If he is exonerated, the Pollution Control Board may consider him for reinstatement. We express no opinion.

There will be no order as to costs.



6. In the petition filed by the petitioner in W.P.No.7888/2020, this Court vide final order dated 14.09.2020, held as hereunder:

"The petitioner is before this Court under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to reinstate the petitioner into service, in the cadre of Law Assistant with all consequential benefits in terms of the directions issued by this Hon'ble Court in W.P.No.33161/2013 dated 26.11.2015 and to quash the impugned endorsement dated 26.08.2020 bearing No.KSPCB/ADM/12/2020 (Annexure-P).

2. The petitioner claims that he was appointed as Law Assistant in the respondent – Board on contract basis w.e.f. 25.05.1998. The same was extended from time to time. While the petitioner was working as Law Assistant, the Lokayukta Police conducted a surprise search and it was found that there was some unaccounted money and the same was seized under a Search mahazar drawn on the same day. The petitioner challenged the initiation of criminal proceedings in Crime No.75/2012 before this Court in Criminal Petition No.5981/2012. In the meanwhile, the services of the petitioner was terminated w.e.f. 1.9.2012, though his contract was



still in force till 30.09.2012. This Court by order dated 18.02.2013 quashed the proceedings in Crime No.75/2012 initiated against the petitioner. Thereafter the petitioner approached this Court in W.P.No.33161/2013 seeking for a direction to the respondents to reinstate and for such other reliefs. On 31.08.2013, the petitioner was reinstated into service and was posted to Gulbarga, where he reported to duty on 12.02.2014. Again on 13.02.2014 the petitioner was informed that he was already dismissed from service.

3. This Hon'ble Court after hearing both the sides by its order 26.11.2015 in W.P.No.8974/2014 C/w W.P.No.33161/2013 observed that if the petitioner comes out clean handed in the enquiry to be held against him, then the respondents may consider and reinstate the petitioner into service, against which the petitioner filed W.A.No.205/2016. A Division Bench of this Court while disposing of the Writ Appeal observed that the Board to conclude the enquiry against the petitioner within a period of six months and if he is exonerated to consider him for reinstatement.

4. Learned counsel for the petitioner submits that the respondent – Board by order dated 16.02.2018 appointed retired District Judge to conduct the enquiry against the petitioner. After



completion of full fledged enquiry against the petitioner, the enquiry officer on 03.09.2018 held that the charges levelled against the petitioner are not proved. Thereafter the petitioner made representations on 29.08.2019 and 17.02.2020 requesting the respondent to reinstate him into service, in view of his exoneration in the enquiry. In pursuance to the representations referred to above, the respondent – Board issued endorsement Annexure –P dated 26.08.2020 declining the request of the petitioner. Hence the petitioner is before this Court challenging the said endorsement and praying for reinstatement into the Board services.

5. Sri Jeevan J Neralgi, learned counsel appearing for the respondent – Board justifies the impugned endorsement. He submits that the services of the petitioner, who is working as Law Assistant on contract basis is no more required in the Board, hence the same was informed to the petitioner. Thus he prays for dismissal of the writ petition.

6. Heard the learned counsel for both the parties through video conference and perused the writ petition papers.

7. Having heard the learned counsel for both the parties, I am of the view, that the impugned endorsement dated 26.08.2020 Annexure-P is a



cryptic order and no reasons are forthcoming. A Division Bench of this Court vide its order dated 28.01.2016 passed in W.A.No.205/2016 has observed that if the petitioner is exonerated, the respondent – Board may consider him for reinstatement. Admittedly, an enquiry was held against the petitioner and charges levelled against the petitioner were not proved in the enquiry, which is clear from Annexure-M – Enquiry report. In such circumstances, the respondent – Board ought to have considered the case of the petitioner on merit and thereafter ought to have passed a reasoned order either reinstating or refusing to reinstate the petitioner into service. In the endorsement, the respondents have stated that the representations have been thoroughly examined keeping in mind the position of law coupled with the legal opinion, without explaining the legal position and what is the opinion expressed. Always reasons would be the foundation for an administrative order. Why the services of the petitioner no longer required is not forthcoming. On a reading of an endorsement one should understand why such an endorsement is being issued, based on the reasons contained in it. The hall mark of an order is reasons and reasons assigned in an order would reveal the application of mind to the matter in issue. But in the present impugned endorsement Annexure-P dated 26.02.2020 as no reasons have been assigned, no one can understand



why the petitioner's services are no longer required by the respondent – Board. The same is a cryptic and unreasoned order.

8. For the reasons stated above, Annexure-P dated 26.08.2020 is set aside. The respondent – Board is directed to reconsider the representations dated 29.08.2019 and 17.02.2020 produced at Annexures N and N1 and to pass a considered and reasoned order within two months from the date of receipt of a certified copy of this order. The same shall be communicated to the petitioner.

With the above observation the writ petition is disposed of.

7. In the petition filed by the petitioner in W.P.No.895/2021, this Court vide final order dated 28.03.2022, held as hereunder:

The petitioner, a Law Graduate, was appointed as Law Assistant with the respondent-Karnataka State Pollution Control Board, on contract basis, with effect from 25.05.1998 to 24.11.1998. The services of the petitioner was extended from time to time. However, it appears that the Lokayukta police conducted a surprise search in the office of the respondent-Board



on 01.09.2012 and found that there was unaccounted money in a sum of Rs.3,00,000/- in the drawer of the petitioner. The said money was seized, mahazar was drawn and the petitioner was arrested. Following the police action, the Board terminated the services of the petitioner on 04.10.2012 with effect from 01.09.2012. The petitioner challenged the criminal proceedings in Crl.P.No.5981/2012 and this Court, by order dated 18.02.2013 quashed the criminal proceedings. The Board thereafter took a decision on 31.08.2013 to reinstate the petitioner into service and directed the petitioner to take charge at its office at Kalaburagi. Though the decision of the Board was taken on 31.08.2013 and the petitioner was directed to report for duty as Law Assistant at Kalaburagi, nevertheless the petitioner seems to have reported for duty on 12.02.2014.

2. In the meanwhile, the petitioner approached this Court in W.P.No.33161/2013 seeking a direction to the respondent-Board to reinstate the petitioner in his original post with continuity of service, considering his representation dated 27.02.2013. This Court heard the matter along with W.P.No.8974/2014 also filed by the petitioner seeking to quash the notification dated 12.02.2013 issued by the respondent-Board calling for applications to the post of Law Assistant in the Board and declined to interfere in the notification for



recruitment. However, this Court held that the respondent-Board was required to hold an enquiry and satisfy itself regarding the charge made against the petitioner and thereafter take a decision in the matter. The petitioner approached the Hon'ble Division Bench in an intra-Court appeal in W.A.No.205/2016 and the Hon'ble Division Bench, by order dated 15.11.2016 declined to accept the submission made on behalf of the petitioner while holding that the standards of proof in the criminal case and the disciplinary proceedings are different. Therefore, even if the criminal proceedings are quashed, the authorities are entitled to initiate disciplinary proceedings against the petitioner. Therefore, the Hon'ble Division Bench directed the respondent-Board to hold an enquiry, complete the same within a period of six months and consider the request made by the petitioner for reinstatement.

3. Following the directions issued by the Hon'ble Division Bench, the respondent-Board appointed a retired District Judge as Enquiry Officer and the Enquiry Officer, after conducting enquiry, as per a report dated 03.09.2018 holding that the charges leveled against the petitioner are not proved.

4. Learned Counsel for the petitioner submits that although the Enquiry officer submitted a report exonerating the petitioner from the charges levelled



against him, when no orders were passed by the Board, the petitioner gave several representations. It is submitted that although the Chairman of the Board put a note on the representation dated 17.02.2020 at Annexure 'N1' that since the petitioner was exonerated in the enquiry held against him, the petitioner may be reinstated into service, however, a communication dated 26.08.2020 at Annexure 'P' was made by the Chairman of the Board stating that the Board has taken a decision not to reinstate the petitioner for the reason that his services are no longer required to the Board. Not being satisfied, the petitioner filed W.P.No.7888/2020 challenging the endorsement dated 26.08.2020. This Court by order dated 14.09.2020 held that no reasons have been assigned in the communication dated 26.08.2020 and therefore, set aside the communication dated 26.08.2020 and directed the respondent-Board to reconsider the representations dated 29.08.2019 and 17.02.2020 and pass reasoned orders within a period of two months from the date of receipt of a certified copy of the order. Following the directions issued by this Court, the impugned endorsement dated 04.12.2020 is issued by the Member Secretary of the respondent-Board.

5. Learned Counsel for the petitioner submits that the Member Secretary could not have issued the



endorsement declining to reinstate the petitioner into service. Moreover, it is submitted that the directions issued by the Hon'ble Division Bench to hold an enquiry against the petitioner follow due procedure of law and consider the question of reinstatement of the petitioner has not been followed by the respondent-Board. Learned Counsel submits that it is a well settled position of law that if the disciplinary authority disagrees with the findings of the enquiry report, the disciplinary authority is required to furnish reasons by issuing a second show cause notice stating why it differs from the finding of the Enquiry officer and what punishment it proposes to impose upon the petitioner.

6. In this regard, the learned Counsel for the petitioner has placed reliance on Punjab National bank and Others Vs. Kunj Behari Misra (1998) 7 SCC 84. However, learned Counsel for the petitioner opposed the said submission that the position of law pointed out by the learned Counsel for the petitioner would apply only to Government servants in terms of Article 311 of the Constitution of India. Learned Counsel for the petitioner submits that the Hon'ble Supreme Court has also held in the case of The Divisional Personnel Officer, Southern Railway, Mysore Vs. Raghavendarchar AIR 1966 SC 1529 that Article 311 makes no distinction between a permanent and temporary posts, its protection must be held to extend



to all government servants holding permanent or temporary posts or officiating in any of them.

7. Per contra, learned Counsel for the respondent-Board submits that the petitioner is admittedly a contract employee and there was no need to hold an enquiry against the petitioner before terminating his services. The learned Counsel seeks to place reliance on Rajasthan State Roadways Transport Corporation Vs. Paramjeet Singh (2019) 6 SCC 250 to contend that if the appointment is a contractual appointment, the services could be dispensed with without notice, at any stage.

8. Having heard the learned Counsels and on perusing the petition papers, this Court finds that the contentions put forth on behalf of respondent-Board that the petitioner is a contractual employee and therefore his services could have been terminated without holding an enquiry and without issuing notice, cannot be accepted at this stage.

9. When there is a specific direction issued by the Hon'ble Division Bench directing the respondent-Board to hold an enquiry and thereafter take a decision in accordance with law, all the other provisions which regulate the disciplinary enquiry was required to be followed by the respondent-Board. It is clear and an established position of law that when



*once disciplinary proceedings are quashed and enquiry is held, the disciplinary authority is required to follow due process of law. In the present case, having accepted the directions of the Hon'ble Division Bench, the respondent-Board caused an enquiry by appointing a District Judge as an Enquiry Officer, to go into the allegations made against the petitioner. The Enquiry Officer submitted a report recording a finding that the charges leveled against the petitioner was not proved. What follows is that if the disciplinary authority sought to differ from the finding of the Enquiry Officer, a second show cause notice was required to be issued to the petitioner stating the reasons for differing with the finding of the Enquiry Officer and thereafter state the proposed punishment sought to be imposed by the disciplinary authority. This is clear and established position as enunciated in **Managing Director, ECIL, Hyderabad And Others Vs. B.Karunakar And Others (1993) 4 SCC 727** which was also followed in **Kunj Behari's** case cited by the learned Counsel for the petitioner.*

10. This Court, is therefore of the considered opinion that the impugned endorsement dated 04.12.2020 cannot be sustained. The Board will also have to take note of the fact that the order of punishment could be issued only by the disciplinary



authority or appointing authority as established by law.

11. For the reasons stated above, this Court proceeds to pass the following:

ORDER

1. The writ petition is allowed.

2. The impugned endorsement dated 04.12.2020 at Annexure 'S' is hereby quashed and set aside.

3. The matter is remitted back to the respondent-Board to reconsider the matter from the stage of considering the enquiry report submitted by the Enquiry Officer. The disciplinary authority is required to consider the enquiry report dated 03.09.2018 and take action in accordance with law and in the light of the observations made hereinabove.

4. Needless to observe that any action that is said to be taken by the respondent- Board shall be as expeditiously as possible and at any rate within a period of four weeks from the date of receipt of a certified copy of this order.

Ordered accordingly.

Pending IAs do not survive for consideration and accordingly stand disposed of.



8. In the petition filed by the petitioner in W.P.No.13993/2024, this Court vide final order dated 05.06.2024, held as hereunder:

The petitioner, who has faced criminal prosecution and departmental proceedings consequent to certain action taken under the provisions of the Prevention of Corruption Act 1988, has repeatedly invoked jurisdiction of this Court under Article 226 of the Constitution of India. Instead of recording in detail the different proceedings commenced by the petitioner as aforesaid, for the purposes of the present writ petition, it would suffice for this Court to record some of the material details. The petitioner has the advantage of the order dated 18.02.2013 in Crl.P.No.5981/2012 which draws curtains on the allegation for penal consequences, and the inquiry in the departmental proceedings is concluded with the Inquiry Report dated 03.09.2018 holding that the charges against the petitioner are not proved.

2. The employer - the second respondent has issued the Communication dated 26.08.2020 informing the petitioner that he cannot be reinstated consequent to such report because he was taken on rolls on a contract. This Court has interfered with



such Communication in W.P.No.7888/2020 [S-RES], and next, the second respondent has issued the Endorsement dated 04.12.2020 disagreeing with the Inquiry Report dated 03.09.2018 and informing the petitioner that he cannot be reinstated. This Court, while considering the merits of such Endorsement in the petitioner's next writ petition in W.P.No.895/2021 [S-RES], has remitted the matter back for reconsideration from the stage of considering the Inquiry Report dated 03.09.2018 observing that the Disciplinary Authority shall act based on the Inquiry Report in the light of certain observations as regards the need of second show cause notice.

3. It is after these proceedings, the second respondent has issued impugned Notice and Office Order, and both of these are dated 16.05.2022. Sri. T. P. Vivekananda, the learned counsel for the petitioner, submits that the respondents, in the light of this Court's observations in the order dated 28.03.2022 in W.P.No.895/2021 [S-RES], cannot dispute that the petitioner is entitled for second show cause notice which must essentially be a reasonable opportunity to show why the Inquiry Report must be accepted, and that with the simultaneous issuance of the Notice and the Office Order dated 16.05.2022, the petitioner is denied such opportunity.



4. *Sri. Gururaj Joshi, the learned counsel for the respondents, submits that if the Notice is issued by the Member Secretary, the Office Order is issued by the Chairman; that the petitioner has indeed been extended an opportunity as is contemplated vide Notice dated 16.05.2022 and that this is seen in the issuance of the Communication dated 11.01.2024 [Annexure – X] to the petitioner. Sri. Gururaj Joshi emphasizes that the petitioner, who is only hired on contractual basis, cannot insist upon a right to be reinstated.*

5. *This Court must opine that none of these contentions meet the grounds raised by the petitioner in this petition. It remains indisputable that the petitioner has not had the opportunity that would be a necessary concomitant of the second show cause notice as enabled by this Court while disposing of the earlier writ petition in W.P.No.895/2021 [S-RES]. Further, it is too trite that post decisional opportunity cannot be due opportunity when such requirement is deemed to be an essential part of the process. Therefore, the petitioner must succeed.*

6. *However, given the nature of the litigation and the petitioner's contention that despite the Inquiry Report in the year 2018, a decision has not been taken in a manner that would pass muster in*



law, this Court is of the considered view that the petition must be disposed of reading both the impugned Notice and the Office Order dated 16.05.2022 as the second show cause notice with reasonable opportunity to the petitioner to respond to the same. This Court must also observe that the respondents, this time shall not act in haste and will be just and reasonable in their decision making process to prevent avoidable litigation as only this can abide well in law and escape censure. In the light of the above, the following:

ORDER

a) The petition is allowed in part. The Communication dated 11.01.2024 [Annexure-X] is quashed, and the impugned Notice and the Office Order dated 16.05.2022 [Annexures - V and V1] are directed to be read/construed as the second show cause notice issued by the respondents in compliance with this Court's order dated 28.03.2022 in W.P.No.895/2021 [S-RES].

b) The petitioner will be at liberty to file response to such show cause notice within four [4] weeks from today. The first and second respondents shall consider such response strictly in accordance with law within a period of eight [8] weeks from the date of receipt of response from the petitioner.



9. As can be seen from the aforesaid facts and circumstances and various orders of this Court, in particular the quashment of the criminal proceedings against the petitioner and exoneration of the petitioner in the departmental inquiry as per the inquiry report, the respondents clearly fell in error in coming to the erroneous conclusion that the charges against the petitioner were proved despite contrary findings being recorded in favour of the petitioner in the earlier round of litigations and orders referred to supra. It is also a matter of record that though the inquiry report exonerating the petitioner of the charges was issued as long back as on 03.09.2018, the same has not been varied, modified or altered in any manner till today and the same has attained finality and become conclusive and binding upon the first respondent - Board.

10. Under these circumstances, I deem it just and appropriate to quash the impugned Official Memorandum dated 19.09.2024 at Annexure-AA and remit the matter



back to respondent No.1 for reconsideration of the request of reinstatement of the petitioner bearing in mind the earlier round of litigation in CrI.P.No.5981/2012, W.P.No. 33161/2013, W.A.No.205/2016, W.P.No.7888/2020, W.P.No.895/2021 and W.P.No.13993/2024 and the enquiry report within a stipulated time frame.

In the result, I pass the following:

ORDER

- (i) The petition is hereby allowed.
- (ii) The impugned Official Memorandum at Annexure-AA dated 19.09.2024 issued by the first respondent is hereby quashed.
- (iii) The matter is remitted back to the first respondent for reconsideration of the claim of the petitioner for reinstatement afresh, in accordance with law in terms of the orders passed by this Court in the earlier round of litigation and the enquiry report



referred to in the body of this order and
pass appropriate orders within a period of
two months from the date of receipt of a
copy of this order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

DKB
List No.: 2 Sl No.: 40