APHC010011382022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3310]**
(Special Original Jurisdiction)

FRIDAY ,THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 1010/2022

Between:

K.subramanya Reddy **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following Order:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

> ***".....to issue an appropriate writ order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings of the 4th respondent in proceedings Rc.No.327/2014/GS, Dt.24.08.2017 and consequential proceedings of rejection of appeal by the 3rd respondent in Rc.No.1662/2017/M2, Dt.Nil.05.2019 and orders of Revision passed by the 2nd respondent in Rc.No.6182/2019/A&DC-1, Dt.24.12.2019 and Rejection order of Mercy Petition, Dt.21.09.2021 as illegal, arbitrary***

and violative of Articles 14, 16 and 21 of the Constitution of India apart from the settled principle of law laid down by the Apex Court regarding conduct of disciplinary enquiry and consequently declare that the petitioner is entitled for reinstatement into service with all consequential benefits……."

2. Brief facts of the case are that the petitioner was appointed as Driver under the respondents in the year 1991 and was working as such till dismissed from service on 24.08.2017 by the 4th respondent. While the petitioner was working as Driver in the office of Sub-divisional Forest Officer, Tirupati, he was placed under suspension on 11.02.2014 on the ground that the petitioner colluded with the red sanders smugglers by collecting bribe. After a period of 20 months, the petitioner was issued with a charge memo dated 26.09.2015 framing lone Article of Charge and that the petitioner was arrested for the same offence by the police of M.R.Palli Police Station. The petitioner has submitted his explanation dated 17.10.2015 to the 4th respondent and the disciplinary authority had appointed a presenting officer vide proceedings dated 01.01.2016 in Rc.No.327/2014/GS. Thereafter, the enquiry was conducted on 09.01.2016, 23.01.2016 and 29.01.2016 without any progress in the enquiry proceedings. Subsequently, again the petitioner was called for enquiry on 13.03.2017 and enquiry proceedings were concluded on the same day and thereafter, enquiry report had been communicated to the petitioner in May 2017, for which the petitioner had submitted final explanation in detail on 12.05.2017. Even though the enquiry

was completed, the suspension of the petitioner had also been extended again, where under the petitioner was continued under suspension for more than three years. The 4th respondent vide proceedings Rc.No.327/2014/GS, dated 24.08.2017 issued orders of major penalty of dismissal from service. Aggrieved by the same, the petitioner filed an appeal on 17.10.2017 before the 3rd respondent and the 3rd respondent after two years, rejected the appeal vide proceedings Rc.No.1662/2017/M2, dated Nil.05.2019. Questioning the same, the petitioner filed revision before the 2nd respondent on 18.06.2019. The 2nd respondent rejected the revision vide proceedings dated 24.12.2019. Thereafter, the petitioner filed a Mercy Petition before the Government, which was disposed of on 21.09.2021 vide Memo No.2514/Sec.IV/A2/2018 by the 1st respondent, which was communicated to the petitioner in third week of October, 2021. Questioning the inaction of the respondents in reinstating the petitioner into service, the present writ petition has been filed.

3. The 4th respondent filed counter affidavit denying the allegations made in the writ petition and stated that the police arrested the persons namely one Venkatesh, Viod Kumar and Doraswamy Venkatesh, while they were transporting 9 red sander logs, weight of 244 kgs in Mahendra Xylo Car bearing No.TN02AN and the police authorities seized the car. During investigation of the said accused, they informed the name of the petitioner, who is helping them for this smuggling of Red Sander activities, for which the

petitioner has taken bribe of Rs.2,00,000/- per load. It is further stated that the petitioner had himself accepted that he has colluded with the RS smugglers. Hence, the petitioner was placed under suspension as per Rule 8(1)(2)(b) of CC & A Rules, 1991 in DFO, Chittoor East (WL) Divison, Chittoor vide Rc.No.327/2014/GS, dated 11.02.2014. The suspension orders were served on the petitioner on 17.02.2014. The 4th respondent addressed to submit his investigation report vide Rc.No.327/2014/GS, dated 07.07.2014. Since the investigation report was delayed, the suspension orders were extended for further period of six months from 09.08.2014 vide Rc.No.327/2014/GS, dated 05.08.2014. The 3rd respondent ordered to be continue for next six months vide Progs.No.25/2015/M2, dated 07.01.2015 from 11.02.2015 in terms of G.O.Ms.No.578, GAD (Ser.3), dated 31.12.1999 and further extension of suspension period of six months from 11.08.2015 also ordered by Conservator of Forest, Ananthapuramu vide Rc.No.25/2015/M2, dated 28.08.2015. Later, the 4th respondent appointed the Sub Divisional Forest Officer, Tirupati as presenting officer vide Rc.No.327/2014/GS, dated 01.01.2016. After completion of all formalities of enquiry, departmental findings were communicated to the petitioner vide Rc.No.327/2014/GS, dated 28.04.2017 stating that charges were proved. Thereafter, final orders were passed by the 4th respondent vide Rc.No.327/2014/GS, dated 24.08.2017 with a punishment of dismissal from service and the same was acknowledged by

the petitioner on 19.09.2017. Thereafter, the petitioner preferred appeal and the same was rejected vide Rc.No.1662/2017/M2, dated Nil.05.2019, confirming the orders of the 4th respondent and the same was acknowledged by the petitioner on 12.06.2019. Thereafter, the petitioner preferred revision petition on 18.06.2019 and the same was rejected vide Rc.No.6182/2019/A&DC-1, dated 24.12.2019. Thereafter, the petitioner submitted Mercy Petition before the Government and the same was also rejected vide Rc.No.2514/Ser-IV/A2/2018, dated 21.09.2021 and the same was acknowledged by the petitioner on 04.12.2021. Therefore, prays to dismiss the writ petition.

4. Heard Mr.M.Vijaya Kumar, learned Senior Counsel representing Mr.Manoj Kumar Bethapudi, learned counsel for the petitioner and learned Assistant Government Pleader for Services-I, for the respondents.

5. On hearing, learned counsel for the petitioner while reiterating the contents urged in the writ petition, submits that, the petitioner in his service of nearly 30 years, earned several rewards, cash awards and commendations from the Department, particularly, in respect of the red sanders cases. He was also issued Certificates of Merit during his service. However, due to unfortunate events taken place, he was implicated in a false case by registering an FIR No.26 of 2014, Dt.04.02.2014 in M.R. Palli Police Station on 04.02.2014 which has lead to the issuance of the charge memo and

consequential disciplinary enquiry proceedings. He further submits that, in the present case, the Disciplinary Authority himself is the Enquiry Officer. The Disciplinary Authority-cum-Enquiry Officer has taken his own time to conduct enquiry even though he had summoned the petitioner to his office on three occasions in January 2016 without any progress in the enquiry and only in the month of March 2017 enquiry has been commenced and concluded. He further submits that, while communicating the enquiry report to the petitioner, the disciplinary authority has not furnished any statements of witnesses. The statements were not furnished even during the enquiry proceedings. Therefore, non-supply of statements of witnesses also is fatal to the enquiry proceedings as held by the Apex Court in catena of judgments. He further submits that the Government has issued G.O.Ms.No.679, dated 01.01.2010 where under, it has been specifically mandated to the Disciplinary Authorities to complete the disciplinary enquiries in a reasonable time i.e., within a period of three months in case of simple nature and six months in the case if charges are complicated. But in the present case, the allegations were levelled against the petitioner in February 2014 and the charge memo had been issued after a period of 1½ years and enquiry proceedings took nearly two years, finally dismissing the petitioner from service. He further submits that in the event/ allegation of February 2014, the petitioner was subjected to enquiry in March 2017, i.e., after a period of more than three years. Therefore, such delay, as

held by the Apex Court amounts to denying reasonable opportunity. Hence, the impugned proceedings of dismissal and consequential proceedings in appeal and revision are liable to be set aside.

6. To support his contentions, learned counsel for the petitioner relied on the decision of ***Nirmala J.Jhala v. State of Gujarat***[1], wherein the Hon'ble Apex Court held as follows:

> *"42. A Constitution Bench of this Court in **Amlendu Ghosh v. District Traffic Superintendent, North-Eastern Railway, Katiyar** [2] , held that the purpose of holding a preliminary inquiry in 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.*
>
> *43. Similarly in **Chiman Lal Shah v. Union of India**[3], a Constitution Bench of this Court while taking a similar view held that preliminary inquiry should not be confused with regular inquiry. The preliminary inquiry is not governed by the provisions of Article 311(2) of the Constitution of India. Preliminary inquiry may be held ex-parte, for it is merely for the satisfaction of the government though usually for the sake of fairness, an explanation may be sought from the government servant even at such an inquiry. But at that stage, he has no right to be heard as the inquiry is merely for the satisfaction of the government as to whether a regular inquiry must be held."*

[1] (2013) 4 SCC 301
[2] AIR 1960 SC 992
[3] AIR 1964 SC 1854

7. Learned counsel for the petitioner further relied on the decision of ***ORYX Fisheries Private Limited Vs. Union of India and Others***[4], wherein the Hon'ble Apex Court held as follows:

> *"40. In M/s Kranti Associates (supra), this Court after considering various judgments formulated certain principles in para 51 of the judgment which are set out below:*
>
> *a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
> *b) A quasi-judicial authority must record reasons in support of its conclusions.*
> *c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
> *d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
> *e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
> *f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
> *g) Reasons facilitate the process of judicial review by superior Courts.*
> *h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*
> *i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
> *j) Insistence on reason is a requirement for both judicial accountability and transparency.*
> *k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to*

[4] (2010) 13 SCC 427

know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

*n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and **Anya** vs. **University of Oxford**, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*

o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

41. In the instant case the appellate order contains reasons. However, absence of reasons in the original order cannot be compensated by disclosure of reason in the appellate order.

8. Learned counsel for the petitioner while relying upon the above decisions, submits that, in the present case, in the enquiry there is no evidence lead in favour of the prosecution and there is no statement by any witness against the charge framed against the petitioner. A perusal of the enquiry report would clearly shows that the Disciplinary Authority though extracted in detail the defence and explanation of the petitioner and his meritorious contribution to the department, particularly in red sanders cases had brushed aside cogent explanation of the petitioner and simply stated that

the charge against the petitioner is proved. While coming to such conclusion, the Disciplinary Authority has not cited a single statement of any witness nor any document examined in the enquiry on behalf of the prosecution. Hence, the entire proceedings of enquiry report concluding the charge against the petitioner as proved, is without any evidence and hence, the findings of the Disciplinary Authority/Enquiry Officer are perverse. Therefore, any action taken against an employee while imposing punishment based on perverse findings as stated above cannot stand to the scrutiny of law, particularly, in disciplinary cases while imposing a capital punishment of dismissal from service. Therefore, the order of punishment of dismissal dated 24.08.2017 suffers from vice of arbitrariness as it is without any basis.

9. Learned counsel for the petitioner has placed a reliance upon a decision of Hon'ble Supreme Court reported in ***Roop Singh Negi Vs. Punjab National Bank and Others***[5]***,*** Wherein the Hon'ble Apex Court held that:

> *"10. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary*

[5] (2009) 2 SCC 570

proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the Enquiry Officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. Appellant being an employee of the bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the Enquiry Officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

11. In ***Union of India Vs. H.C. Goel***[6]***,*** *it was held:*

> *".....The two infirmities are separate and distinct though, conceivably, in some cases, both may be present. There may be cases of no evidence even where the Government is acting bona fide; the said infirmity may also exist where the Government is acting mala fide and in that case, the conclusion of the Government not supported by any evidence may be the result of mala fides, but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issued without further proof of mala fides. That is*

[6] (1964) 4 SCR 718

why we are not prepared to accept the learned Attorney-General's argument that sine no mala fides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.

That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charged framed against the respondent has been proved, is based on no evidence. The learned Attorney-General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by he appellant is a reasonably possible view, this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondents case is, is there any evidence on which a finding can be made against the respondent that charge No. 3 was proved against him ? In exercising its jurisdiction under Art. 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which dealt with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charges in question is proved against the respondent ? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the

respondent's grievance is well-founded because, in our opinion, the finding which is implicit in the appellant's order dismissing the respondent that charge number 3 is proved against him is based on no evidence."

12. *In* ***Moni Shankar V. Union of India***[7]***,*** *this Court held:*

"17. The departmental proceeding is a quasi judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The Court exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely - preponderance of probability. If on such evidences, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality."

....This Court referred to its earlier decision in ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd***[8] *to opine:*

"41. We may not be understood to have laid down a law that in all such circumstances the decision of the civil court or the criminal court would be binding on the disciplinary authorities as this Court in a large number of decisions points point that the same

[7] (2008) 3 SCC 484
[8] (1999) 3 SCC 679

would depend upon other factors as well. See e.g. Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh and Anr. (2004) 8 SCC 200 and Manager, Reserve Bank of India Bangalore v. S. Mani and Ors. (2005) 5 SCC 100. Each case is, therefore, required to be considered on its own facts.

42. It is equally well settled that the power of judicial review would not be refused to be exercised by the High Court, although despite it would be lawful to do so. In Manager, Reserve Bank of India Bangalore (supra) this Court observed:

'39. The findings of the learned Tribunal, as noticed hereinbefore, are wholly perverse. It apparently posed unto itself wrong questions. It placed onus of proof wrongly upon the appellant. Its decision is based upon irrelevant factors not germane for the purpose of arriving at a correct finding of fact. It has also failed to take into consideration the relevant factors. A case for judicial review, thus, was made out."

14. In that case also, the learned single judge proceeded on the basis that the disadvantages of an employer is that such acts are committed in secrecy and in conspiracy with the person affected by the accident, stating:

".....No such finding has been arrived at even in the disciplinary proceedings nor any charge was made out as against the appellant in that behalf. He had no occasion to have his say thereupon. Indisputably, the writ court will bear in mind the distinction between some evidence or no evidence but the question which was required to be posed and necessary should have been as to whether some evidence adduced would lead to the conclusion as regard the guilt of the delinquent officer or not. The evidence adduced on behalf of the management must have nexus with the charges. The Enquiry Officer cannot base his findings on

mere hypothesis. Mere ipso dixit on his part cannot be a substitute of evidence.

45. The findings of the learned Single Judge to the effect that 'it is established with the conscience (sic) of the Court reasonably formulated by an Enquiry Officer then in the eventuality' may not be fully correct inasmuch as the Court while exercising its power of judicial review should also apply its mind as to whether sufficient material had been brought on record to sustain the findings. The conscience of a court may not have much role to play. It is unfortunate that the learned Single Judge did not at all deliberate on the contentions raised by the appellant. Discussion on the materials available on record for the purpose of applying the legal principles was imperative. The Division Bench of the High Court also committed the same error."

*15. Yet again in **M.V. Biljani v. Union of India**[9]**,** this Court held:*

".....Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

[9] (2006) 5 SCC 88

16. Yet again in ***Jasbir Singh vs. Punjab & Sind Bank & ors***[10]*, this Court followed* ***Narinder Mohan Arya v. United India Insurance Co. Ltd. & ors****, stating:*

> *"12. In a case of this nature, therefore, the High Court should have applied its mind to the fact of the matter with reference to the materials brought on records. It failed so to do."*

Therefore, learned counsel requests this Court to allow the writ petition.

10. Per Contra, learned Assistant Government Pleader while reiterating the contents made in the counter affidavit, submits that, when the subject matter involved in this case is different from other cases. The enquiry reports are required from various departmental authorities and hence, there is lot of information to be gathered on the case and procedure has to be completed in this case for which major punishment may have to be imposed. Hence, more time was required for disposal of the case. Therefore, the contention of the petitioner that there is delay in passing the dismissal order is not correct. He further submits that the petitioner has exhibited serious breach of the reputation of the A.P. Forest Department, by giving information about the movements of the forest officials and safety routes to the R.S. Smugglers and extended co-operation for passing away the loaded vehicles smoothly without any interruption and encouraging them for transporting of R.S. Wood illegally by collecting Rs.2,00,000/- per load and this was accepted by the

[10] (2007) 1 SCC 566

petitioner for which he was arrested by the police authorities of M.R. Palli Police Station. Thus, the petitioner has failed to maintain absolute integrity, discipline and sense of property in violation of Sub rule (1) of Rule 3 of APCS (conduct) Rules, 1964. Hence, the petitioner was given punishment of dismissal from service which shall ordinarily be disqualified for future employment under the Government. The punishment was confirmed in the appeal, revision and mercy petition. Therefore, learned Assistant Government Pleader prays to dismiss the writ petition.

11. Perused the record.

12. On a perual of the material on record, it appears that the 4th respondent vide proceedings Rc.No.327/2014/G2, dated 28.04.2017 made the following observations:

> *"He has submitted that he was accompaining with the Sub Divisional Forest Officer, Tirupati and attended Divisional Forest Officer camp at Srikalahasti on 04.02.2014. After completion of Divisional Forest Officer camp, returned back to Tirupati. On 04.02.2014 evening, while parking the vehicle in the Office premises of Sub Divisional Forest Officer, Tirupati, the Task Force Staff surrounded me and instructed to come to the Office of the Task Force, Tirupati. As per their instructions, he has followed them and appeared before the O.S.D., Task Force, Tirupati. The staff of Task Force, Tirupati have taken his Mobile phone and verified and checked. Then they produced one of the accused involved in Cr.No.26/2014 and asked him "Do you know him", the accused who has seen the Charged Officer stated to the Task Force staff "No" and never seen the Charged Officer he replied. Then the staff sent the Charged Officer to his home with instructions to come to the Office on 05.02.2014 at about 10.00 AM. They enquired him in several angles about the seizure of nine (9) Red Sanders logs weighing 244 Kgs. Along with XYLO Car No. TN 02 AW 4441 and the accused involved in Cr.No.26/2014, Dt.04.02.2014. He told to*

the Task Force staff that he don't know. The Task Force staff warned Charged Officer, if not admitted the Offence, a case will be booked against the sons of Charged Officer. But, no statement was recorded on 05.02.2014 and sent the Charged Officer to his home on 05.02.2014 and directed to come to Office on 06.02.2014 at about 10.00 AM. As per their directions, the Charged Officer has turned up to the Office of Task Force, Tirupati for enquiry on 06.02.2014 at about 10.00 AM. The Task Force Police have again and again enquired about the case in Cr.No.26/2014, DL.04.02.2014. During the enquiry on 07.02.2014, the Charged Officer told to the Task Force, Tirupati that he don't know about the Cr.No.26/2014, Dt.04.02.2014. No statement was recorded by them on 07.02.2014 also but obtained signature on empty papers only. Thus the Task Force Police have kept the Charged Officer at Office of the Task Force, Tirupati from 04.02.2014 to 07.02.2014.

Finally on 07.02.2014, the Task Force staff have handed over the Charged Officer to the Police Station, M.R.Palli, immediately, they have brought the panchayatdars from the surrounding areas of his residence. They came over to the Police Station, M.R. Palli and obtained their signatures. But they don't know what they recorded in the mahazarnama. The Police have not enquired the Charged Officer about the case and also what they recorded in the Mahazarnama. Thus, they taken time from 07.02.2014 to 09.02.2014 for preparation of case records. The Charged Officer was in the Police Station from 07.02.2014 to 10.02.2014 morning."

13. It is further observed from the material on record, that the Analysis and Assessment of evidences by the Inquiry Officer reads as follows:

"(iii) The Charged Officer while submitting reply to the Article of Charge has stated that he has signed on the empty papers provided by the M.R. Police just before sending him to remand is absolutely false. If such type of situation was there, why he has not brought to the notice of the Hon'ble Judge during sending him to the remand and why he was silent over the matter at that time. Further, if the situation was brought to the notice of the Hon'ble Judge, the arrest of the Charged Officer would be stopped at the time itself. But the Charged Officer has accepted his arrest at that time and it is evident that he has given confession statement with his knowledge only. Hence, he has signed on the white sheet before the police authorities is after thought and blaming the police staff on their integrity.

> *(iv) The Panchayatdhars 1.Sri V.Prakash Reddy, S/o Late V.Madhav Reddy, aged about 35 years, D.No.20-3-18/21, Sivajyothinagar, Tirupati, Urban Mandal, Chittoor District and 2. Sri Y.Nagi Reddy, S/o Late Y.Konda Reddy, aged about 45 years, D.No.20-3-18/21-A, Sivajyothinagar, Tirupati, Urban Madal, Chittoor District are the witnesses in the case of the Charged Officer in Cr.No.26/2014, Dt.04.02.2014 M.R.Palli PS, Tirupati. They have signed on the confession statement recorded by the M. R.Palli Police on 10.02.2014 but now during the enquiries, they are denying the confession given by the Charged Officer is after thought."*

14. The Conservator of Forests, Ananthapuramu vide Rc.No.1662/2017/M2, dated Nil.05.2019, held that "*the appeal petition of Sri K.Subramanyam Reddy, Driver, (U/d) against the punishment of "Dismissal from service which shall ordinarily be a disqualification for future employment under the Government" awarded by the Divisional Forest Officer, Chittoor East (WL) Division, Chittoor vide Proc.Rc.No.327/2014/G2, Dt:24.08.2017, is hereby sustained.*"

15. Having regard to the facts and circumstances of the case and on considering the submissions of both the learned counsels, this Court is of the opinion that, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the petitioner, a decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report

of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof. Hence, this Court is inclined allow the writ petition, setting aside the impugned proceedings dated 24.08.2017.

16. Accordingly, the Writ Petition is allowed. The impugned proceedings vide Rc.No.327/2014/GS, dated 24.08.2017 issued by the 4th respondent is hereby set aside. Further, the respondents are directed to reinstate the petitioner into service with all consequential benefits. No costs.

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

Dr. K. MANMADHA RAO, J

BMS