HC-KAR

NC: 2025:KHC-D:13861
WP No. 101219 of 2018

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IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 101219 OF 2018 (S-DE)

BETWEEN:

RAVI D. BAGALKOT,
AGE:33 YEARS, OCC:CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
LAXMESHWAR - 582 116, DIST: GADAG. …PETITIONER
(BY SRI. G. N. NARASAMMANAVAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY THE SECRETARY, MINISTRY OF MUNICIPAL ADMINISTRATION, VIKASA SOUDHA,
AMBEDKAR VEEDHI, BANGALORE – 01.

2. THE DIRECTOR,
DIRECTORATE OF MUNICIPAL ADMINISTRATION,
VIKAS SOUDHA, AMBEDKAR VEEDHI,
BENGALURU – 01.

3. THE DEPUTY COMMISSIONER, DHARWAD - 580 001.

4. THE ENQUIRTY OFFICER,
ADDITONAL DEPUTY COMMISSIONER,
OFFICE OF DEPUTY COMMISSIONER,
GADAG - 582 101.

5. THE CHIEF OFFICER TOWN MUNICIPAL COUNCILM
KALAGATAGI 580 114, DIST: DHARWAD.

…RESPONDENTS

(BY SMT. KIRTILATA R. PATIL, HCGP FOR R1 TO R4;
SRI. S.S.NIRANJAN, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT QUASHING THE IMPUGNED ORDER DATED 20.01.2018 BEARING NO.3014 DMA71 EQBG 2013-2014/6493 PASSED BY THE RESPONDENT NO.2 VIDE ANNEXURE-"A" AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

The petitioner is before this Court seeking the following prayer:

> "A. Issue writ in the nature of Certiorari or any other appropriate writ quashing the impugned Order dated 20.01.2018 bearing no.3014 DMA71 EQBG 2013-2014/6493 passed by the respondent no.2 vide Annexure-"A".
>
> B. Grant any other reliefs and deemed fit and proper in the circumstances of the case."

2. Heard the learned counsel Sri.G.N. Narasammanavar appearing for the petitioner and Smt.Kirtilata R. Patil, learned HCGP for respondent Nos.1 to 4 and Sri. S.S. Niranjan, learned counsel for respondent No.5.

3. The petitioner was at the relevant point in time working as Senior Health Inspector, Town Municipal Council and later was transferred to work as Chief Officer of the Pattan

Panchayath, Kalaghatagi. On certain allegations or omissions and commissions, the charge sheet comes to be issued against the petitioner and an Inquiry Officer appointed for conduct of inquiry in terms of the charge sheet against the petitioner. The Inquiry Officer is said to have exonerated the petitioner, the exoneration of which was not accepted by the Disciplinary Authority and the Disciplinary Authority directed appointment of a new Inquiry Officer to conduct a *de novo* inquiry on the same charges. It is then that the petitioner is before this Court in the subject petition.

4. The learned counsel appearing for the petitioner submits that there cannot be a *de novo* inquiry by different Inquiry Officer on the same charges, which is the settled principle of law. He would seek to place reliance upon the judgment of the Apex Court in the case of **K.R. DEB v. THE COLLECTOR OF CENTRAL EXCISE, SHILLONG**[1]**.**

5. *Per contra*, the learned HCGP would refute the submission in contending that the Disciplinary Authority was not satisfied with the first report of the Inquiry Officer and therefore,

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[1] **(1971) 2 SCC 102**

a *de novo* inquiry was directed to be conducted and no fault can be found with the direction to conduct a *de novo* inquiry. She would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions of the learned counsel for parties and have perused the material on record.

7. The afore-narrated facts are not in dispute. **The issue lies in a narrow compass as to whether there could be a *de novo* inquiry by the hands of a different Inquiry Officer on the same set of allegations.**

8. The impugned order dated 20.01.2018 passed by the respondent No.2 reads as follows:

ನಿರ್ದೇಶಕರು, ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯ, ಬೆಂಗಳೂರುರವರ ನಡವಳಿಗಳು

ವಿಷಯ: ಶ್ರೀ ರವಿ ಡಿ.ಬಾಗಲಕೋಟಿ, ಹಿಂದಿನ ಮುಖ್ಯಾಧಿಕಾರಿಗಳು (ಮೂಲ ಹುದ್ದೆ ಹಿರಿಯ ಆರೋಗ್ಯ ನಿರೀಕ್ಷಕರು), ಪಟ್ಟಣ ಪಂಚಾಯಿತಿ, ಕಲಘಟಗಿ, ಹಾಲಿ ರೋಣ ಪುರಸಭೆ ಇವರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಬಗ್ಗೆ

ಉಲ್ಲೇಖ: 1. ಯೋಜನಾ ನಿರ್ದೇಶಕರು, ಜಿಲ್ಲಾ ನಗರಾಭಿವೃದ್ಧಿ ಕೋಶ, ಧಾರವಾಡ ಇವರ ಪತ್ರ ಸಂಖ್ಯೆಡಿಯುಡಿಸಿ/ಸಿಬ್ಬಂದಿ/2013–14/998, ದಿ: 26–02–2012
2. ಈ ನಿರ್ದೇಶನಾಲಯದ ಸಮಸಂಖ್ಯೆ. ದಿ:05–11–20150 ಆದೇಶ.
3. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಹಾಗೂ ಅಪರ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಗದಗ ಉಪವಿಭಾಗ, ಗದಗ ರವರ ವಿಚಾರಣಾ ವರದಿ –(1)/ 2/54/2015–16, ದಿ:30–10–2017

ಪ್ರಸ್ತಾವನೆ:

ಶ್ರೀ ರವಿ ಡಿ.ಬಾಗಲಕೋಟರವರು ಈ ಹಿಂದೆ ಕಲಘಟಗಿ ಪಟ್ಟಣ ಪಂಚಾಯಿತಿಯಲ್ಲಿ ಮುಖ್ಯಾಧಿಕಾರಿಯಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಅವ್ಯವಹಾರಗಳನ್ನು ಎಸಗಿರುವುದಾಗಿ ಕಲಘಟಗಿ ಪಟ್ಟಣ ಪಂಚಾಯಿತಿಯ ಚುನಾಯಿತ ಪ್ರತಿನಿಧಿಗಳು ಮತ್ತು ಸಾರ್ವಜನಿಕರು ದಿನಾಂಕ 13–12–2013 ಮತ್ತು 18–12–2013 ರಂದು ನಿರ್ದೇಶನಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿರುವ ದೂರುಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಧಾರವಾಡ ಜಿಲ್ಲೆರವರಿಂದ ವರದಿ ಕೋರಲಾಗಿತ್ತು. ಅದರಂತೆ ಯೋಜನಾ ನಿರ್ದೇಶಕರು, ಜಿಲ್ಲಾ ನಗರಾಭಿವೃದ್ಧಿ ಕೋಶ, ಧಾರವಾಡ ಜಿಲ್ಲೆರವರ ವರದಿ ದಿನಾಂಕ 24–03–2014 ರಂತೆ ಅಪಾದಿತ ನೌಕರರಿಗೆ ದಿನಾಂಕ 05–05–2014ರಂದು ಕಾರಣ ಕೇಳಿ ನೋಟೀಸನ್ನು ಕಳುಹಿಸುತ್ತಾ ಸದರಿ ನೋಟೀಸಿಗೆ ಸಮಜಾಯಿಷಿ ನೀಡಲು, ತಪ್ಪಿದಲ್ಲಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದಾಗಿ ತಿಳಿಸಲಾಗಿರುತ್ತದೆ.

ಮುಂದುವರೆದು, ಶ್ರೀ ರವಿ ಡಿ.ಬಾಗಲಕೋಟರವರು ಕಾರಣ ಕೇಳಿ ನೋಟೀಸಿಗೆ ಸಮಜಾಯಿಷಿ ಸಲ್ಲಿಸುತ್ತಾ ತಮ್ಮ ವಿರುದ್ಧ ಆರೋಪಗಳನ್ನು ಅಲ್ಲಗಳೆದಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸದರಿಯವರಿಗೆ ಕೆ.ಸಿ.ಎಸ್(ಸಿಸಿಎ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 11ರ ಅನುಬಂಧ–1 ರಿಂದ 4 ರವರೆಗಿನ ದೋಷಾರೋಪಣ ತಿಳುವಳಿಕೆ ಪತ್ರವನ್ನು ದಿನಾಂಕ 14–07–2015ರಂದು ಜಾರಿಗೊಳಿಸಿದ್ದು, ಅದಕ್ಕೆ ಆಪಾದಿತ ನೌಕರರು ಸಲ್ಲಿಸಿದ ಲಿಖಿನ ಸಮಜಾಯಿಷಿಯೊಂದಿಗೆ ಸಮರ್ಥನೀಯ ದಾಖಲೆ/ಬೇಳೆ, ಸಲ್ಲಿಸದೆ ಇರುವುದರಿಂದ, ಸದರಿಯವರ ಲಿಖಿತ ಸಮಜಾಯಿಷಿಯನ್ನು ಒಪ್ಪಲು ಬಾರದಿರುವುದರಿಂದ ,ಸದರಿ ದೋಷಾರೋಪಗಳ ಸತ್ಯಾಸತ್ಯತೆಯನ್ನು ಕಂಡು ಹಿಡಯಲು ಉಲ್ಲೇಖ(2) ರಂತೆ ಗದಗ ಜಲ್ಲಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯ ಆಡಳಿತ ವಿಭಾಗದ ಶಿರಸ್ಸೇದಾರ್ರವರನ್ನು ಮಂಡನಾಧಿಕಾರಿಗಳನ್ನಾಗಿ ನೇಮಿಸಲಾಗಿರುತ್ತದೆ.

ಶ್ರೀ ರವ ಡಿ. ಬಾಗಲಕೋಟರವರ ವಿರುದ್ದ 5 ಆರೋಪಗಳಿದ್ದು, ಅದರಲ್ಲಿ 4 ಆರೋಪಗಳು ಸಾಬೀತಾಗಿರುವುದಿಲ್ಲವೆಂದು ಉಲ್ಲೇಖ (3) ರ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ ತಿಳಿಸಲಾಗಿದೆ. ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಾಬೀತಾಗಿರುವುದಿಲ್ಲವೆಂದು ಸಲ್ಲಿಸಿರುವ ಆರೋಪಗಳ ಕುರಿತು ಪರಿಶೀಲಿಸಿದ್ದು ಈ ಕೆಳಕಂಡ ಅಂಶ/ನ್ಯೂನತೆಗಳು ಕಂಡುಬಂದಿರುತ್ತದೆ:

ಆರೋಪ–1 ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಪಾದಿತ ನೌಕರರು ಮಳಿಗೆ ನಂ.27 ರಲ್ಲಿ ಶ್ರೀ.ರಾಘವೇಂದ್ರ ಕುಸುಗಲ್ ಇವರು ಅನಧಿಕೃತವಾಗಿ ವಾಣಿಜ್ಯ ಮಳಿಗೆಯಲ್ಲಿ ನಡೆಸುತ್ತಿದ್ದರು ಅದನ್ನು ತೆರವುಗೊಳಿಸಿರುವ ಕುರಿತು ಅಥವಾ ತೆರವುಗೊಳಿಸುವ ಬಗ್ಗೆ ಆಪಾದಿತ ನೌಕರರು ಕ್ರಮ ಜರುಗಿಸಿದ್ದಾರೆಯೇ ಎಂಬ ಅಂಶದ ಬಗ್ಗೆ ಪರಿಶೀಲಿಸಿ ಅಭಿಪ್ರಾಯ ನೀಡದೆ, ಆಪಾದಿತ ನೌಕರರ ಮೇಲಿನ ಆರೋಪ ಸಾಬೀತಾಗಿರುವುದಿಲ್ಲವೆಂದು ಅಭಿಪ್ರಾಯ ನೀಡಿರುತ್ತಾರೆ.

ಆರೋಪ–2ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಬೀದಿನಾಯಿಗಳನ್ನು ಹಿಡಿಯಲು ಕರೆಯಲಾದ ದರಪಟ್ಟಿಗಳಲ್ಲಿ ದರ ನಮೂದಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಕೈತಪ್ಪಿನಿಂದ ಬೇರೆ ದರ(ಕಡಿಮೆ ದರ) ನಮೂದಿಸಿರುವುದರಿಂದ ಹಾಗೂ ದರವನ್ನು ನಮೂದಿಸಿದ ದರಕ್ಕೆ ಅನುಗುಣವಾಗಿ ಕಡಿಮೆ ದರವನ್ನು ನಮೂದಿಸಿದ ಬಿಡ್‌ದಾರರಿಗೆ ಕಾರ್ಯಾದೇಶ ನೀಡಿ ಕ್ರಮ ವಹಿಸಿರುವುದು ಸರಿಯಿರುವುದರಿಂದ ಆರೋಪ ಸಾಬೀತಾಗಿರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಆದರೆ, ಸದರಿಯವರಿಂದ ಆದ ಕರ್ತವ್ಯಲೋಪದ ಬಗ್ಗೆ ಯಾವುದೇ ಪ್ರಸ್ತಾಪ ಮಾಡಿರುವುದಿಲ್ಲ.

ಆರೋಪ–4ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ 2013–14ನೇ ಸಾಲಿನ 13ನೇ ಹಣಕಾಸು ಯೋಜನೆಯಡಿಯಲ್ಲಿ ಕೈಗೊಂಡಿರುವ ರೂ.4.32 ಲಕ್ಷದ ಕಾಮಗಾರಿಗಳು ಕಲಘಟಗಿ ಪಟ್ಟಣ ಪಂಚಾಯಿತಿ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಕೈಗೊಂಡಿರುವುದು ದಿ: 02–09–2016ರ ದಾಖಲೆಯಿಂದ ತಿಳಿದು ಬಂದಿರುವುದರಿಂದ ಆರೋಪ ಸಾಬೀತಾಗಿಲ್ಲವೆಂದು, ಆದರೆ ಪ್ರಸ್ತಾಪಿಕ ಕಾಮಗಾರಿಗಳನ್ನು ಕೈಗೊಂಡ ಸ್ಥಳಗಳ ವಿವರವು ಇಲ್ಲದಿರುವ ಬಗ್ಗೆ ತಿಳಿಸಿರುವುದಿಲ್ಲ ಹಾಗೂ ರೂ.4.87 ಲಕ್ಷದ ಮೊತ್ತದ ಕಾಮಗಾರಿಗಳ ಕುರಿತು ಯಾವುದೇ ಪ್ರಸ್ತಾಪ ಮಾಡಿರುವುದಿಲ್ಲ.

ಆರೋಪ–5ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆರೋಪದಲ್ಲಿ ವ್ಯವಸಾಯೇತರ ಉದ್ದೇಶಕ್ಕೆ ಭೂ ಪರಿವರ್ತಿಸಲಾದ ಜಮೀನಿನ ವಿನ್ಯಾಸದ ನಕ್ಷೆಯು ಸಂಬಂಧಿಸಿದ ಪ್ರಾಧಿಕಾರದಿಂದ ಅನುಮೋದನೆ ಪಡೆಯದೆ, ಖಾತೆ ದಾಖಲಿಸಿ, ನಕಲು ನೀಡಿ, ಕರ್ತವ್ಯ ಲೋಪ ಎಸಗಿರುವ ಅಂಶದ ಬಗ್ಗೆ ಪ್ರಸ್ತಾಪಿರುವುದಿಲ್ಲ.

ಆದ್ದರಿಂದ, ವಿಚಾರಣಾಧಿಕಾರಿಗಳ ಅಭಿಪ್ರಾಯವನ್ನು ಒಪ್ಪುವಂತದ್ದಾಗಿರುವುದಿಲ್ಲ. ಅಲ್ಲದೇ ವಿಚಾರಣಾ ಸಂದರ್ಭದಲ್ಲಿ ಮಂಡನಾಧಿಕಾರಿಯು ಸಹ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರದ ಪರವಾಗಿ ವಾದ ಮಂಡಿಸದೆ, ಆಪಾದಿತನ ಪರವಾಗಿ ಮತ್ತು ಆಪಾದಿತನಿಗೆ ಅನುಕೂಲವಾಗುವ ರೀತಿಯಲ್ಲಿ ವಾದ ಮಂಡಿಸಿರುವುದು ಸೂಕ್ತವಾಗಿರುವುದಿಲ್ಲ. ಈ ನಿಟ್ಟಿನಲ್ಲಿ ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಸಲ್ಲಿಸಿರುವ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ ಕೆಲವೊಂದು ನ್ಯೂನತೆಗಳಿದ್ದು, ಯಾವುದೇ ಸ್ಪಷ್ಟತೆ ಇಲ್ಲದೇ ಇರುವುದರಿಂದ ಮರುವಿಚಾರಣೆ ನಡೆಸಲು ತೀರ್ಮಾನಿಸಿ, ಅದರಂತೆ ಕೆ.ಸಿ.ಎಸ್(ಸಿಸಿಎ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 11(ಎ)ರಂತೆ ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿನ ನ್ಯೂನತೆಗಳ ಬಗ್ಗೆ ಪರಿಶೀಲಿಸಿ, ಮರುವಿಚಾರಣೆ ನಡೆಸಲು ವಿಚಾರಣಾಧಿಕಾರಿಗಳನ್ನು ನೇಮಿ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶ ಹೊರಡಿಸಿದೆ.

ಆದೇಶ ಸಂಖ್ಯೆ: 3014, ಡಿಎಂಎ 71 ಇಕ್ಯೂಬಿಚಿ 2013–14/6493 ದಿನಾಂಕ 20–01–2018

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವಂತೆ ಡಾ: ವಿಶಾಲ್.ಆರ್, ಭಾ.ಆ.ಸೇ., ಶಿಸ್ತು, ಪ್ರಾಧಿಕಾರಿ ಮತ್ತು ನಿರ್ದೇಶಕರು, ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯ, ಬೆಂಗಳೂರು ಆದ ನಾನು ಕೆ.ಸಿ.ಎಸ್.(ಸಿಸಿಎ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 9(2)(ಸಿ)ರ ಪದತ್ತವಾದ ಅಧಿಕಾರದನ್ವಯ ಶ್ರೀ.ರವಿ ಡಿ.ಬಾಗಲಕೋಟ, ಹಿಂದಿನ ಮುಖ್ಯಾಧಿಕಾರಿಗಳು (ಮೂಲ ಹುದ್ದೆ ಹಿರಿಯ ಆರೋಗ್ಯ ನಿರೀಕ್ಷಕರು), ಕಲಘಟಗಿ ಪಟ್ಟಣ ಪಂಚಾಯಿತಿ, ಹಾಲಿ ರೋಣ ಪುರಸಭೆ ಇವರ ವಿರುದ್ಧದ ದೋಷಾರೋಪಗಳ ಸತ್ಯಾಂಶ ಪರಿಶೋಧನೆಗಾಗಿ ಮರುವಿಚಾರಣೆ ಜರುಗಿಸಲು ಕೆ.ಸಿ.ಎಸ್ (ಸಿಸಿಎ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 11(5)(ಎ)ರಂತೆ ಉಪ ಕಾನೂನು ಅಧಿಕಾರಿಗಳು ಹಾಗೂ ನಿವೃತ್ತ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಧೀಶರು, ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯ, ಬೆಂಗಳೂರು ಇವರನ್ನು ವಿಚಾರಣಾಧಿಕಾರಿಗಳನ್ನಾಗಿಯು ಹಾಗೂ ಮೇಲ್ಕಂಡ ನಿಯಮ 11(5)(ಸಿ)ರ ಪ್ರಕಾರ ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯದ ಲೆಕ್ಕ ಶಾಖೆಯ ಲೆಕ್ಕ ಅಧೀಕ್ಷಕರನ್ನು ಮಂಡನಾಧಿಕಾರಿಯನ್ನಾಗಿ ನೇಮಿಸಿದೆ.

ವಿಚಾರಣಾ ಪ್ರಾಧಿಕಾರವು 4 ತಿಂಗಳೊಳಗಾಗಿ ವಿಚಾರಣೆಯನ್ನು ಪೂರ್ಣಗೊಳಿಸಿ ವಿಚಾರಣಾ ವರದಿ ಸಲ್ಲಿಸಲು ಸೂಚಿಸಲಾಗಿದೆ.

ನಿರ್ದೇಶಕರು
ಪೌರಾಢಳಿತ ನಿರ್ದೇಶನಾಲಯ
ಬೆಂಗಳೂರು

(Emphasis added)

It is not in dispute that the Inquiry Officer so appointed to conduct a Departmental Inquiry against the petitioner, exonerated the petitioner of all the allegations. The report of such exoneration was forwarded to the Disciplinary Authority.

The Disciplinary Authority has now appointed a new Inquiry Officer to conduct a *de novo* inquiry.

9. Once the inquiry proceedings are concluded, the Inquiry Officer would communicate the report of such inquiry to the Disciplinary Authority. The course open to the Disciplinary Authority is twofold, either to accept the report of the Inquiry Officer and close the proceedings against the delinquent employee or to disagree with the findings of the Inquiry Officer. There is no jurisdiction to the Disciplinary Authority to appoint a new Inquiry Officer to direct conduct of a *de novo* inquiry on the same charges, on the ground that the earlier Inquiry Officer had rendered a report which was not in tune with what the Disciplinary Authority wanted.

10. It becomes apposite to refer to the judgments of the Apex Court in the case of **K.R. DEB** *(supra)* and its aftermath.

10.1. The Apex Court in the case of **K.R. DEB** held as follows:

> "**12. It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no**

proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the Disciplinary Authority may ask the Inquiry Officer to record further evidence. But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the Inquiring Officer or Officers does not appeal to the Disciplinary Authority. The Disciplinary Authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9.

13. In our view the rules do not contemplate an action such as was taken by the Collector on February 13, 1962. It seems to us that the Collector, instead of taking responsibility himself, was determined to get some officer to report against the appellant. The procedure adopted was not only not warranted by the rules but was harassing to the appellant.

14. Before the Judicial Commissioner the point was put slightly differently and it was urged that the proceedings showed that the Disciplinary Authority had made up its mind to dismiss the appellant. The Judicial Commissioner held that on the facts it could not be said that the Disciplinary Authority was prejudiced against the appellant. But it seems to us that on the material on record a suspicion does arise that the Collector was determined to get some Inquiry Officer to report against the appellant."

(Emphasis supplied)

10.2. The Apex Court in the case of **UNION OF INDIA v. KD PANDEY[2],** observed as follows:

"**4. On remit the inquiry officer made a report finding Respondent 1 guilty of four charges. Based on that report, the Railway Board dismissed Respondent 1, which was challenged in the dispute raised by him. The Tribunal as well as the High Court are of the view**

[2] **(2002) 10 SCC 471**

that on the same material a fresh opinion has been furnished and it was not a case of further inquiry. Indeed, it was not noticed by the disciplinary authority that the inquiry held earlier was bad or that the management or the establishment did not have the proper opportunity to lead evidence or the findings were perverse. In the absence of the same, it was held that there was no justification on the part of the disciplinary authority to commence fresh inquiry on the same set of charges.

5. Learned counsel for the appellant contended that in this case the Board had examined the material on record and come to the conclusion that four of the six charges could be proved on the available material, which had not been properly examined in the earlier inquiry. In fact from the order made by the Railway Board as well as from that part of the file where the inquiry report made earlier is discussed, it is clear that specific findings have been given in respect of each of the charges after discussing the matter and, if that is so, we fail to understand as to how there could have been a remit to the inquiry authority for further inquiry. Indeed this resulted in second inquiry and not in a further inquiry on the same set of charges and the material on record. If this process is allowed the inquiries can go on perpetually until the view of the inquiry authority is in accord with that of the disciplinary authority and it would be abuse of the process of law. In that view of the matter we think that the order made by the High Court affirming the order of the Tribunal is just and proper and, therefore, we decline to interfere with the same. The appeal is dismissed accordingly."

(Emphasis supplied)

10.3. In the case of **KANAILAL BERA v. UNION OF INDIA**[3]**,** it is observed as follows:

[3] **(2007) 11 SCC 517**

> "**6.** The question as to whether a punishment of confinement to Civil Lines could have been directed or not should not detain us as we agree with the contention raised by learned counsel for the appellant that the purported order dated 5-4-1995 of the disciplinary authority was unsustainable in law. Rule 27 of the Central Reserve Police Force Rules, 1955, inter alia, lays down the procedure for conducting a departmental inquiry. **Once a disciplinary proceeding has been initiated, the same must be brought to its logical end meaning thereby a finding is required to be arrived at as to whether the delinquent officer is guilty of charges levelled against him or not. In a given situation further evidences may be directed to be adduced but the same would not mean that despite holding a delinquent officer to be partially guilty of the charges levelled against him another inquiry would be directed to be initiated on the selfsame charges which could not be proved in the first inquiry.**"
>
> (Emphasis supplied)

10.4. In the case of **NAND KUMAR VERMA v. STATE OF JHARKHAND,**[4] it is observed as follows:

> "**26.** In our opinion, having accepted the explanations and having communicated the same to the appellant, the High Court could not have proceeded to pass the order of initiating departmental proceedings and reverting the appellant from the post of Chief Judicial Magistrate to the post of Munsif. **On general principles, there can be only one enquiry in respect of a charge for a particular misconduct and that is also what the rules usually provide. If, for some technical or other good ground, procedural or otherwise, the first enquiry or punishment or exoneration is found bad in law, there is no principle that a second enquiry cannot be initiated. Therefore, when a completed enquiry proceedings is set aside by a competent forum on a technical or on the ground of procedural**

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[4] **(2012) 3 SCC 580**

infirmity, fresh proceedings on the same charges is permissible.

27. In the present case, a charge memo was issued and served on the appellant. A reading of the charge memo does not contain any reference to the proceedings of the Standing Committee at all. It is also not found as to whether the earlier proceedings has been revived in accordance with the procedure prescribed. In fact, after receipt of the charge memo, the appellant, in his reply statement, had brought to the notice of the enquiry officer that on the same set of charges, a notice had been issued earlier and after receipt of his explanation dated 21-12-1994, the Standing Committee, after accepting his explanation had dropped the entire proceedings and the same had been communicated to him by the Registrar General of the High Court by his letter dated 2-2-1995. In spite of his explanation in the reply statement filed, the enquiry officer has proceeded with the enquiry proceedings and after completion of the same, has submitted his report which has been accepted by the disciplinary authority. Therefore, in these circumstances, there is no justification for conducting a second enquiry on the very charges, which have been dropped earlier. Even though the principle of double jeopardy is not applicable, the law permits only disciplinary proceedings and not harassment. Allowing such practice is not in the interest of public service. In the circumstance, we cannot sustain the impugned order reverting the appellant to the lower post."

(Emphasis supplied)

10.5. In the case of **VIJAY SHANKAR PANDEY v. UNION OF INDIA,**[5] it is observed as follows:

"**24.** Be that as it may, the question is whether the disciplinary authority could have resorted to such a practice of abandoning the enquiry already undertaken and resort to appointment of a fresh enquiring authority (multi-member)? **The issue is not really whether the enquiring authority should be a single member or a**

[5] **(2014) 10 SCC 589**

multi-member body, but whether a second inquiry such as the one under challenge is permissible. A Constitution Bench of this Court in *K.R. Deb* v. *CCE* [*K.R. Deb* v. *CCE*, (1971) 2 SCC 102] , examined the question in the context of Rule 15(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1957. It was a case where an enquiry was ordered against a Sub-Inspector, Central Excise (the appellant before this Court). The enquiry officer held that the charge was not proved. Thereafter the disciplinary authority appointed another enquiry officer "to conduct a supplementary open inquiry". Such supplementary inquiry was conducted and a report that there was "no conclusive proof" to "establish the charge" was made. Not satisfied, the disciplinary authority thought it fit that "another enquiry officer should be appointed to inquire afresh into the charge".

25. The Court in *K.R. Deb* [*K.R. Deb* v. *CCE*, (1971) 2 SCC 102] held that: (SCC p. 105, paras 12-13)

> "*12*. It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the *disciplinary authority may ask the enquiry officer to record further evidence*. But there is no provision in Rule 15 *for completely setting aside previous inquiries* on the ground that the report of the inquiring officer or officers does not appeal to the disciplinary authority. The disciplinary authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9.
>
> *13*. In our view the Rules do not contemplate an action such as was taken by the Collector on 13-2-1962. It seems to us that the Collector, instead of taking responsibility himself, was determined to get some officer to report against the appellant. The procedure adopted was not only not warranted by the Rules but was harassing to the appellant."
>
> (emphasis supplied)

and allowed the appeal of *K.R. Deb*.

> **26. It can be seen from the above that the normal rule is that there can be only one enquiry. This Court has also recognised the possibility of a *further enquiry* in certain circumstances enumerated therein. The decision however makes it clear that the fact that the report submitted by the enquiring authority is *not acceptable* to the disciplinary authority, is not a ground for completely setting aside the enquiry report and ordering a second enquiry.**
>
> **27.** The scheme of Rule 8 of the Discipline Rules and Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 are similar. Therefore, the principle laid down in *Deb case* [*K.R. Deb* v. *CCE*, (1971) 2 SCC 102], in our opinion, would squarely apply to the case on hand.
>
> **28.** Therefore, **it becomes necessary for us to examine the legality of the impugned order in the light of the law laid down in *Deb case* [*K.R. Deb* v. *CCE*, (1971) 2 SCC 102] i.e. whether a further enquiry is really warranted on the facts of the case. We shall proceed for the purpose of this case that such further enquiry need not be by the same officer who initially constituted an enquiring authority and could be by a multi-member board.**"
>
> (Emphasis supplied)

The jurisprudence on the point stands crystallized in the aforesaid judgments beginning from K.R.DEB traversing through K.D.PANDEY, KANAILAL BERA, NANDA KUMAR VERMA, VIJAY SHANKAR PANDEY, all quoted *supra*. The consistent refrain of the Apex Court has been that, while further enquiry by the same officer is permissible if marred by procedural lapses, the appointment of

successive officers, until a desired conclusion is reached, would undoubtedly amount to abuse of the process.

11. **The principle that emerges is clear as crystal; the Disciplinary Authority is empowered to reconsider the evidence and record its own findings which would be disagreement with the findings of the Enquiry Officer; it is not empowered to endlessly commission fresh enquiries, until its predisposition is satisfied. Such a course not only contravenes the Rules, but also strikes at the root of fairness, reasonableness and becomes arbitrary. In the present case, the appointment of the new Enquiry Officer to rehear the very charges already adjudicated is wholly without jurisdiction. If permitted, it would reduce the enquiry process into a never ending ordeal, eroding the basic tenets of administrative justice.**

12. For the aforesaid reasons, the following:

ORDER

(i) Petition is allowed.

(ii) The impugned order dated 20.01.2018 bearing No. 3014 DMA71 EQBG 2013-2014 / 6493 passed by the respondent No.2 is quashed.

(iii) The petitioner shall become entitled to all consequential benefits that would flow from the quashment of laws.

Sd/-
(M.NAGAPRASANNA)
JUDGE

RSH & VNP / CT-ASC
List No.: 1 Sl No.: 80