

**\*HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**+WRIT PETITION No.13421 of 2021**

**Between:**

#G.v.I.narayana Rao

**...PETITIONER**

**AND**

\$The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

JUDGMENT PRONOUNCED ON **28.03.2025**

**THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law  
Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair  
copy of the Judgment? - Yes -

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**DR.JUSTICE K. MANMADHA RAO**

\* THE HON'BLE DR.JUSTICE K. MANMADHA RAO

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...**RESPONDENT(S)**

! **Counsel for the Petitioner :** Sri Bugulu Sreeteja

! **Counsel for Respondents:** GP for Services-I

<Gist :

>Head Note:

? Cases referred: 1. (1995) SCC (L&S) 290 (Civil Apepal No.2982 of 1989 daed 17.3.1993)

APHC010235102021



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

[3310]

FRIDAY ,THE TWENTY EIGHTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE DR JUSTICE K MANMADHA RAO**

**WRIT PETITION NO: 13421/2021**

**Between:**

G.v.l.narayana Rao

**...PETITIONER**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.BUGULU SREETEJA

**Counsel for the Respondent(S):**

1.GP FOR SERVICES I

**The Court made the following:**

**ORDER**

This petition is filed under Article 226 of the Constitution of India for the following relief:-

*"...to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declare the impugned Proceedings issued vide Memo No.Fin 01/HODSOADTASMNG/14/2018, Dated 09.11.2020 issued by the 1<sup>st</sup> respondent communicated vide Endorsement of the 2<sup>nd</sup> respondent No.Fin0213039/15/2020C SECDA117625, Dated 21.6.2021, and the Termination Proceedings No.C3/8280/2009, Dated 26.7.2010 issued by the 3<sup>rd</sup> respondent, as illegal, arbitrary, and unreasonable and in violation of Principles of Natural Justice and disproportionate in nature and set aside the same, consequently direct the respondents to reinstate the petitioner into service with all consequential benefits, by duly extending the benefit of similar consideration done in case*

*of G.O.Rt.No.727, Home Services-II Department, Dated 21.4.2006, and GO.Rt.No.385 Home Department, dated 4.3.2010 and pass...".*

2. The case of the petitioner in brief is that he was appointed as Senior Accountant and has been posted to work in Accounts Branch at office of the Commissioner of Civil Supplies, AP and joined on 20.12.2017 in Accounts wing. The petitioner applied leave for the period from 05.05.2008 to 31.10.2008 in various spells and EOL has been sanctioned the above period w.e.f. 05.02.2008 to 02.08.2008. As the mother of the petitioner was unwell, the petitioner went to his native place and stay along with his mother. Thereupon, his mother died on 01.04.2009 and the petitioner made a representation to the audit officer and reported for duty on 07.05.2009 with a request to sanction leave for the period from 02.10.2008 to 06.05.2009. It is further stated that the 2<sup>nd</sup> respondent vide proceedings, dated 07.06.2010 sought for clarification from this office, Director of Treasuries whether to admit the individual into the duty or not. Accordingly, the 2<sup>nd</sup> respondent directed the Accounts officer, Office of the Commissioner of Civil Supplies, A.P., Hyderabad to admit the individual into duty and process the leave period from 03.08.2008. But the same was not done. It is further stated that, a multiple fractures nearby nose happened to father of the petitioner and the 2<sup>nd</sup> respondent issued Memo, dated 07.06.2010 calling for explanation in which he directed to take notice in terms of Rule 17 (II) of AP State and Subordinate Service Rules why services were cannot be terminated and discharge services forthwith. Thereafter, the 3<sup>rd</sup> respondent issued proceedings, dated 26.07.2010 wherein admitted the fact that in reference No.7 the petitioner

given explanation and he was terminated from services in terms of Rule 17a(II) of A.P. State and subordinate service rules. Thereafter, the 1<sup>st</sup> respondent issued Memo, dated 10.01.2011 rejecting the claim of the petitioner. The father of the petitioner made a representation under RTI Act, 2005 on 16.07.2014 and accordingly, the 2<sup>nd</sup> respondent issued information, dated 04.09.2014 clearly stating that nearly 6 members who did not complete the probation period were not attended duties from 01.06.2008 to 01.06.2010 and they were deputed/reinstated and posted to another place, whereas the petitioner was also similarly situated person, but the same was not extended to the petitioner. The petitioner made a representation to the Finance Minister on 24.08.2020, the same was forwarded by the OSD to the Prl. Secretary to Government, Finance Department i.e., 1<sup>st</sup> respondent herein on 24.08.2020 itself, the same was pending before the authorities and not passed any orders. In similar circumstances, the Government is considered and issued G.O.Rt.No.727, dated 21.04.2006, who is also in probation period absented and he was terminated his probation period by mentioning Rule 17(a) (ii) of A.P State and Subordinate Service Rules and accordingly he was reinstated into service by imposing PPI for four years effect on increment and pension and that period is treated die non. Hence, the present Writ Petition is filed.

3. Counter affidavit was filed by Respondent Nos.1 to 3, wherein it is stated that the petitioner has not joined to duty after expiry of leave and was absent from his duties w.e.f., 03.08.2008 without any proper intimation to the Unit Officer. The individual has submitted his joining report on 07.05.2009 with

a request to admit him for duty after issuing several notices by the Unit Officer. After examination of the case, the Accounts Officer has been informed to admit the individual and process the leave w.e.f., 03.08.2008 to date on receipt of the leave application from the individual. Subsequently, the Accounts officer has informed that the individual was absent from duty without applying any kind of leave from 08.05.2009 thereby the individual has been absconded to duties w.e.f., 03.08.2008. It is further stated in the counter affidavit that the petitioner has submitted explanation on 16.06.2010 to the notice issued by the 2<sup>nd</sup> respondent, dated 07.06.2010 stating that because of his family conditions he has attended the duty. After careful examination of the explanation of the petitioner, being not satisfied with the same, the 3<sup>rd</sup> respondent has issued orders terminating and discharging the petitioner from service with immediate effect Progs.C3/8280/2009, dated 26.07.2010 under Rule 17a(ii) of APS & SS Rules.

It is further stated in the counter affidavit that the Government has rejected the appeal petition of the petitioner filed against the termination orders and after a lapse of 10 years, the petitioner made appeal on 30.11.2018 to the Government to reinstate into service, which was also ended in rejection vide order, dated 29.01.2019. Further, in pursuance to the orders, dated 01.03.2021 in W.P.No.4867 of 2021, the Government examined the representation, dated 24.08.2020 and issued orders vide Memo No.FIN01-HODSOADTA(SMNG)/14/2018, dated 09.11.2020, rejecting the request of the petitioner for re-appointment into service and the same has been

communicated through DTA Endorsement No.FIN02-13039/15/2020-C SEC-DTA, dated 21.06.2021. Hence, the impugned proceedings vide Memo No.FIN01-HODSOADTA(SMNG)/14/2018, dated 09.11.2020 and FIN02-13039/15/2020-C SEC-DTA, dated 21.06.2021 are issued strictly in terms of the rules and the petitioner is approaching for reinstatement since from 26.07.2010. In view of the above facts, prayed to dismiss the writ petition.

4. Heard Mr. Bugulu Sreeteja, learned counsel appearing for the petitioner and the learned Government for Service-I appearing for the respondents.

5. On hearing, learned counsel for the petitioner submits that though the petitioner has submitted his explanation to the Memo, dated 07.06.2010, without considering the same, the 3<sup>rd</sup> respondent has terminated the petitioner from services in terms of Rule 17 (a) (ii) of A.P State and Subordinate Service Rules which is illegal and arbitrary. He further draws attention of this Court to the Judgment of the Hon'ble Supreme Court in Civil Appeal Nos.2106 of 2012, dated 15.02.2012 in case ***of Krushnakanth B Parmar Vs. Union of India***, wherein it is observed that *unauthorized absence from duty amounts to failure of devotion to duty or behaviour unbecoming of a Government servant cannot be decided without deciding question whether absence is wilful or compelling circumstances. The compelling circumstances beyond his control like illness, accident and hospitalization.*

6. The learned counsel for the petitioner further submits that, in similar circumstances, the Hon'ble Supreme Court in a case of **Union of India and others vs. Girija Sharma**<sup>1</sup>, observed that, there is no intention for not attending the duty but circumstances forced him to do so and finally observed that to give minor punishment. In the present case, there is no willful disobedience on part of the petitioner and there is compelling circumstances. He further submits that, in similar circumstances, the Government has also considered and issued G.O.Rt No.727 dated 21.4.2006 who is also in probation period absented due to unwell of his aunty and he was terminated his probation period, by mention Rule 17(a)(ii) of A.P. State and subordinate Service Rules, and accordingly he was reinstated into service, by imposing PPI for four years effect on increment and pension and that period is treated die non. But, the petitioner was not reinstated into service by treating the out of duty as not on duty. Hence, the learned counsel for the petitioner requests to pass appropriate orders.

7. Learned Government Pleader appearing for the respondents submits that the appeal petition filed by the petitioner was rejected by the respondents vide order, dated 29.01.2019. He further submits that in pursuance to the orders, dated 01.03.2021 in W.P.No.4867 of 2021, the Government examined the representation, dated 24.08.2020 and issued orders vide Memo No.FIN01-HODSOADTA(SMNG)/14/2018, dated 09.11.2020, rejecting the request of the petitioner for re-appointment into

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<sup>1</sup>(1995) SCC (L&S) 290 (Civil Appeal No.2982 of 1989 dated 17.3.1993)

service and the same has been communicated through DTA Endorsement No.FIN02-13039/15/2020-C SEC-DTA, dated 21.06.2021 to the petitioner. Hence, the learned Government Pleader submits that the impugned proceedings are issued strictly in terms of the rules. Hence, the learned Government Pleader requests to dismiss the present writ petition.

8. Perused the record.

9. On perusal of the record, it is observed that, the petitioner herein was appointed as Senior Accountant through APPSC Notification and allotted to the Treasuries and Accounts Department and joined on 20.12.2007 in Accounts Wing. Later, he applied for leave for the period from 5.5.2008 to 31.10.2008 in various spells and the EOL has been sanctioned period is only for the period from 5.5.2008 to 2.8.2008.

10. It is the contention of the petitioner that the father of the petitioner has made a representation under RTI Act on 16.7.2014 and accordingly the 2<sup>nd</sup> respondent issued information dated 4.9.2014 stating that nearly 6 members who did not complete the probation period where not attended duties from 01.06.2008 to 1.6.2010 and they were deputed/reinstated and posted to another place, whereas the petitioner herein also similarly situated person, but the same was not extended to him, which is clear discrimination on the part of the respondents.

11. Moreover, it is the contention of the respondents that the leave applied for by the individual i.e., EOL has been sanctioned w.e.f. 5.5.2008 to

2.8.2008 on private affairs vide proceedings dated 15.11.2008 as per Rule 23(a)(ii) of A P Leave Rules 1933 as per eligibility. Period of Probation under Rule 16(c )(i) of the A/P State Subordinate Service Rules 1996, which reads as under:

**Rule 16(c ): Period of Probation** : Unless otherwise stated in the special rules or in this rule, the period of probation shall be as follows:

- (i) Every person appointed by direct recruitment to any post shall, from the date on which he commences his probation be on probation for a period of two years on duty within a continuous period of three years.

12. As seen from the Memo No.1813/267/A1/Admn.III/2010, dated 10.01.2011 issued by the 2<sup>nd</sup> respondent, wherein it is observed that;

“The DTA, Hyderabad is informed that as per rule 17 (e) of A.P.State & Subordinate Service Rules, 1996, appeal against the discharge of probationer is only in case of persons discharged under clause (i) or clause (iii) or sub-rule (f) of rule -16 The individual ie. Sri G.V.L. Narayana Rao, Senior Accountant, O/o the Director of Treasuries and Accounts, A.P., Hyderabad has been terminated the services under Rule 17 (a)(ii) of A P.State & Subordinate Service Rules, 1996 There is no provision for appeal against a probationer under clause (ii) of Rule 17 (a) of A. P. State & Subordinate Service Rules, 1996. Hence, the request of the individual i.e. reinstatement into service is not considered and is hereby rejected.”

13. Even otherwise, the orders of termination/dismissal and removal from service are considered as capital punishments in Service Law and such extreme punishments cannot be based on an isolated incident. Removal from service is an extreme penalty and before inflicting such a punishment the Disciplinary Authority is required to examine as to whether any lesser punishment can be inflicted considering the misconduct of an employee. If there are chances of re-formation and improvement in conduct, one chance can be given to the employee. It is to be noted that punishment of removal or dismissal will affect the entire family members of the employee as the family

members will also be put in ruinous financial condition. Though not a sole criteria for deciding the question of punishment, these factors are required to be kept in mind as the entire life of not only the delinquent but his family members is likely to be disturbed.

14. On perusing the material on record, this Court observed that, the petitioner was appointed and reported to duty on 20-12-2007 and availed leaves from 05-05-2008 to 02-08-2008 during probation period as per Rule 23 (a)(i) of A.P. Leave Rules 1933 as per eligibility. Subsequently, absent from duty without applying any kind of leave and absconded to duties w.e.f. 03.08.2008. Hence, show cause notice was issued to the petitioner and the petitioner has submitted his explanation dated 16-06-2010. After considering the said explanation, the 3<sup>rd</sup> respondent has issued orders terminating the petitioner from service with immediate effect vide proceedings dated 26.07.2010. Aggrieved by the same the petitioner preferred an appeal before the Government and the same was rejected. Thereafter, after lapse of 10 years, the petitioner made another Appeal Petition on 30-11-2018 to the Government to reinstate into service, which was also rejected by the Government. It seems that, after rejection of appeal petition, in the year 2010, nowhere in the affidavit, the petitioner has not explained proper reasons. Moreover, after lapse of 10 years, the petitioner filed an appeal petition seeking for reinstatement into service is nothing but abuse of law.

15. In view of the above facts and circumstances, this Court is of the view that the proceedings issued by the respondents are strictly in terms of

the rules and hence found no merit in the instant writ petition and devoid of merits and the same is liable to be dismissed.

16. Accordingly, the Writ Petition is dismissed. No costs. As a sequel, interlocutory applications, if any pending, shall stand closed.

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**DR. K. MANMADHA RAO, J.**

*Date : 28 -03-2025*

*Gvl*

**HON'BLE DR. JUSTICE K. MANMADHA RAO**

**WRIT PETITION No.13421 of 2021**

*Date :28.03.2025*

*GVI*