

APHC010296012019



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

[3549]

WEDNESDAY, THE SEVENTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA**

**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

**WRIT PETITION No: 13686 of 2019**

**Between:**

1. THE ZILLA GRANDHALAYA SAMSTHA, REP. BY ITS SECRETARY, NEAR SBI MAIN BRANCH NARASIMHA RAO PET, ELURU, WEST GODAVARI DISTRICT.
2. THE DIRECTOR OF PUBLIC LIBRARIES, STATE OF A.P. MANGALAGIRI, GUNTUR DISTRICT.
3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, EDUCATION (PE.LIB) DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.

**...PETITIONER(S)**

**AND**

1. K V RAGHAVA RAO, S/O K.SATYANARAYANA, AGED 54 YEARS, OCC LIBRARIAN GR III, GANAPAVARAM LIBRARY, ZILLA GRANDHALAYA SAMSTHA, WEST GODAVARI DISTRICT.
2. THE ZILLA GRANDHALAYA SAMSTHA, REP. BY ITS CHAIRMAN, NEAR SBI MAIN BRANCH NARASIMHA RAO PET, ELURU, WEST GODAVARI DISTRICT (2ND RESPONDENT IS A FORMAL PARTY)
3. KADIYALA LAKSHMI NARASAMAMBA, W/O LATE K.V.RAGHAVA RAO, AGE 55 YEARS, R/O CHEBROLU, UNGUTURU MANDAL, WEST GODAVARI DISTRICT.

RESPONDENT NO 3 BROUGHT ON RECORD AS LR FOR  
DECEASED RESPONDENT NO.1 AS PER C.O.DT 12/12/2023 VIDE  
I.A.NO 1 OF 2020 IN W.P.NO 13686 OF 2019.

**...RESPONDENT(S):**

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

1.GP FOR SERVICES I (AP)

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

1.MR.K.S.MURTHY FOR MR.PONNADA SREE VYAS

Judgment Reserved on : 07.10.2025

Judgment Pronounced on : 07.01.2026

Judgment Uploaded on : 08.01.2026

**The Court made the following Order:** *(Per Hon'ble Sri Justice Ninala Jayasurya)*

Aggrieved by the order of the erstwhile Andhra Pradesh Administrative Tribunal at Hyderabad dated 08.10.2018 in O.A.No.2846 of 2014, the present writ petition is filed.

2. The 1<sup>st</sup> respondent / applicant filed the said O.A., to declare the order of the 2<sup>nd</sup> respondent dated 05.02.2011 and the consequential orders of the Government /4<sup>th</sup> respondent therein dated 15.04.2013 confirming the decision of the 2<sup>nd</sup> respondent for removal of the applicant from service as illegal, arbitrary etc.

3. Along with O.A.No.2846 of 2014, the learned Tribunal *vide* common order dated 08.10.2018, disposed of Review M.A.No.1493 of 2014 in O.A.No.5431 of 2013 filed by the very same applicant.

4. Heard Mr.G.V.L.N.Murthy, learned Government Pleader for the writ petitioners / respondents in O.A.No.2846 of 2014 and Mr.K.S.Murthy, learned Senior Counsel appearing on behalf of the respondent No.3, who was brought on record as legal representative of the deceased – respondent No.1 / applicant. Perused the material on record.

5. For the sake of convenience, the parties are referred to as arrayed before the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal').

Before dealing with the arguments advanced by the learned counsel, the brief facts of the case may be narrated thus :

6. Based on a News item published in Andhra Jyothi that the Library in Nidamarru branch is not functioning properly, the applicant Mr.K.V.Raghava Rao, Librarian (Grade-III) was placed under suspension *vide* Proceedings dated 07.07.2008. Subsequently, the 2<sup>nd</sup> respondent through Proceedings dated 24.11.2008 revoked the suspension order and reinstated the applicant into service, subject to disciplinary action to be initiated against the applicant.

7. One Mr.K.Gangadhar Rao was initially appointed as an Enquiry Officer, who issued a Charge Memo to the applicant. However, as he retired from service, another Enquiry Officer Mr.V.T.D.Nagesh was appointed and on 25.10.2009, the Second Enquiry Officer submitted an Enquiry Report holding that all the charges were proved against the applicant. Pursuant to the said Enquiry Report, the 2<sup>nd</sup> respondent issued a Show Cause Notice dated 05.12.2009 to the applicant to show cause as to why he shall not be removed from service. The applicant submitted reply / objections dated 31.08.2010 and thereafter *vide* Proceedings dated 05.02.2011, the 2<sup>nd</sup> respondent / Chairman - The Zilla Grandhalaya Samstha withdrew the proposed punishment of removal of the applicant on humanitarian grounds, subject to :

1. Relaxation of G.O.Ms.No.260 GAD dt. 04.09.2003 and Rule 5 (a) of Andhra Pradesh Leave Rules 1933 and FR 18 (a) in favour of Sri K.V.Raghava Rao by the Government.
2. Recovery of Rs.3,41,591/- from Sri K.V.Raghava Rao in monthly installments.

3. Imposing of any penalty within the purview of the Secretary on Sri K.V.Raghava Rao.

8. The Government *vide* Memo dated 15.04.2013, rejected the request for relaxation of Rules issued in G.O.Ms.No.260 GAD dated 04.09.2003. The Government also reviewed the disciplinary case of the applicant, concurred with the original decision of the 2<sup>nd</sup> respondent to remove the applicant from service and advised the 2<sup>nd</sup> respondent to act accordingly. The 2<sup>nd</sup> respondent pursuant to the said Memo, issued Proceedings dated 25.05.2013 directing the petitioner to pay an amount of Rs.3,41,591/- towards the loss sustained by the Zilla Grandhalaya Samstha.

9. Challenging the Proceedings dated 25.05.2013, the applicant filed O.A.No.5431 of 2013 and the same was dismissed by an order dated 09.04.2014. Seeking review of the same, the applicant filed Review M.A.No.1493 of 2014 in O.A.No.5431 of 2013. The applicant filed a separate O.A.No.2846 of 2014 challenging the proceedings dated 05.02.2011 of the 2<sup>nd</sup> respondent and the consequential proceedings of the 4<sup>th</sup> respondent- Government *vide* Memo dated 15.04.2013. The learned Tribunal while considering the said review as well as O.A.No.2846 of 2014 formulated the following points for consideration:

- (i) Whether the findings of the Enquiry Officer are based on proper and sufficient evidence?
  - (ii) Whether the applicant is liable for recovery of an amount of Rs.3,41,591/-?
- And

- (iii) Whether the proceedings of the Government, dated 15.04.2013, approving proposed removal of the applicant and suggesting to impose the same is legal and valid? If so, to what relief?

10. The learned Tribunal *vide* common order, dated 08.10.2018, allowed the review application, disposed of the both the Original Applications i.e., O.A.No.5431 of 2013 and O.A.No.2846 of 2014. While answering Point No.1 partly and Point Nos.2 and 3 in favour of the applicant, the learned Tribunal, *vide* said common order set aside the proceedings dated 05.02.2011 of the 2<sup>nd</sup> respondent and the Memo of the 4<sup>th</sup> respondent dated 15.04.2013 and the proceedings dated 25.05.2013. The learned Tribunal further directed the respondents to reconsider the issue and impose an appropriate punishment other than dismissal, removal or compulsory retirement. The respondents were also directed to look into the quantum of loss actually caused as per the evidence and take appropriate steps for recovery.

11. The learned Government Pleader made submissions *inter alia* to the effect that the learned Tribunal having accepted that some of the findings of the Enquiry Officer are valid, ought not to have interfered in the matter or issued directions to modify the punishment. He submits that unless the Tribunal comes to a conclusion that the punishment proposed is disproportionate, it ought not to have issued any directions to award lesser punishment. He also submits that the opinion of the learned Tribunal that there was an interference of the Government in imposing the punishment and the Disciplinary Authority was not permitted to exercise its power

independently is not tenable. He contends that in the light of the Enquiry Report and the rejection of the request for relaxation of Rule 5 (a) of the Andhra Pradesh Leave Rules, 1933 and Fundamental Rule 18 (a) by the Government, the original decision of the 2<sup>nd</sup> respondent for removal of the applicant became operative, that the learned Tribunal without considering the matter in a proper perspective, erroneously set aside the Proceedings dated 05.02.2011 as also Memo dated 15.04.2013 and the other Proceedings dated 25.05.2013. He submits that as the Zilla Grandhalaya Samstha suffered loss in view of the misdeeds committed by the applicant, the recovery proceedings are valid and the learned Tribunal ought not to have interfered with the same.

12. On the other hand, Mr.K.S.Murthy, learned Senior Counsel made submissions to the effect that in view of the death of the applicant, the entire proceedings stands abated. It is his contention that the learned Tribunal after examining the matter in detail, by its well considered Common Order directed the respondents to reconsider the issue by setting aside the proceedings impugned in the O.As., and as the applicant died before taking further action, the disciplinary proceedings were not logically concluded. Placing reliance on the decisions rendered by the Division Benches of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh and the High Court of Judicature at Madras in **Government of Andhra Pradesh and another v. Smt.M.Veeramma** (W.P.No.4138 of 2004 dated 10.08.2017), **The General Manager & Others v. Kavati Prasannakumari & Others** (W.P.No.26570 of 2021 dated 27.09.2023)

respectively, the learned counsel submits that as the disciplinary action is abated in view of the death of applicant, the 3<sup>rd</sup> respondent herein is entitled for family pension and other benefits. Accordingly, he seeks appropriate orders by dismissing the writ petition.

13. In reply, the learned Government Pleader submits that the Departmental Enquiry against the applicant was concluded long back, that thereafter a decision was taken to impose punishment and that the issue of abatement would arise only if the disciplinary proceedings are pending, which is not the situation in the present case. Placing reliance on the decisions of the Division Benches of the High Court of Judicature at Patna and High Court of Judicature at Allahabad in **State of Bihar & Others v. Shanti Kumari & Others** and **State of U.P., v. Smt.Brajesh Kumari & Others** respectively, the learned Government Pleader urges to allow the writ petition and set aside the impugned order.

14. On an appreciation of the rival contentions, the following points arise for consideration :

1) Whether the Order of the learned Tribunal is not sustainable in the facts and circumstances of the case?

2) Whether the disciplinary action initiated against the applicant is abated in view of his death?

15. Before dealing with the points for adjudication, it may be appropriate to mention that the learned Tribunal while allowing the Review M.A.No.1493 of

2014 in O.A.No.5431 of 2013, disposed of the said O.A., along with O.A.No.2846 of 2014 by a common order. However, the respondents / petitioners filed the present writ petition, only against O.A.No.2846 of 2014, which is fatal and the writ petition is liable to be dismissed on that ground. Be that as it may.

### Point No.1

16. Insofar as Point No.1 is concerned, the learned Tribunal after examining the matter in detail categorically held that the charges proved against the applicant may not warrant his removal from service. In fact, it also recorded a finding that there is no sufficient evidence in respect of loss of books and held that the recovery of amount of Rs.3,41,591/- from the applicant is not justified. In view of the said findings, the Tribunal set aside the proceedings dated 25.05.2013 with regard to recovery of an amount of Rs.3,41,591/-. The Tribunal thus virtually allowed O.A.No.5431 of 2013 and said order has not been questioned by way of a separate writ. Therefore, the said order has attained finality and the respondents cannot recover the said amount. That apart, as seen from the proceedings dated 05.02.2011, though a decision was taken to remove the applicant from service, the 2<sup>nd</sup> respondent withdrew the proposed punishment on humanitarian grounds, subject to certain conditions referred to in the penultimate para of the proceedings dated 05.02.2011. It is not in dispute that the Government has not agreed for relaxation of Rule 5 (a) of the A.P.Leave Rules, Fundamental Rules 18 (a). However, no material is

placed before this Court with regard to the Government's power or authority to review to disciplinary case against the applicant and concur for removal of the applicant from service as originally proposed by the 2<sup>nd</sup> respondent. In the absence of the same, the conclusion arrived at by the learned Tribunal to the effect that the disciplinary authority was not permitted to exercise his power independently and followed the directions of the Government, cannot be found fault with. The learned Tribunal has also considered the decision in **D.Ramesh Sinha v. Cadre Authority for Key Personnel of Co-operative Central Banks / Apex Bank, Hyderabad**<sup>1</sup>.

17. On a close reading of the impugned order, this Court is satisfied that the Tribunal assigned cogent reasons for setting aside the proceedings impugned in the O.A., and the same is tenable. Point No.1 is answered accordingly.

Point No.2:

18. As noted earlier, it is the contention of the learned Senior Counsel that as the applicant died, the disciplinary action stands abated. Whereas, the learned Government Pleader's argument is that as the enquiry was already conducted and the charges proved, the question of abatement does not arise.

19. At this juncture, it is pertinent to refer to the relevant citations relied on by the learned counsel:

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<sup>1</sup> 2001 SCC OnLine AP 1206

In **Shanti Kumari's case** referred to above, the learned Division Bench while dismissing the appeal filed by the State against the orders of the learned Single Judge, whereby the writ petition was allowed and the disciplinary proceedings was held abated *inter alia* opined as follows:

“.....if a matter requires a remand to the Disciplinary Authority for proceeding afresh in the matter but the delinquent has deceased in the meanwhile, the disciplinary proceeding would abate as a whole. But if there is no procedural default by the Disciplinary Authority; the delinquent has been given opportunity to examine the evidence, both oral and documentary; and the order of penalty is to be tested on its merits by the Appellate Authority, then the death of the delinquent would not lead to abatement because the disciplinary proceeding has attained finality. The essential requirement in either situation is, that the records should be available.”

In **Brajesh Kumari** referred to above, the case before the U.P.Public Service Tribunal at Lucknow is that the entire proceedings including order which lead to punishment of one Mr.Mukesh Pal Singh stood abated as he died during the pendency of the appeal and his legal representatives were entitled to retiral dues, family pension, G.P.F., etc. The Tribunal allowed the claim petition in their favour and the learned Division Bench was not inclined to agree with the view taken by the Tribunal that the entire proceedings including the punishment order stood abated. The learned Division Bench in the facts of the case opined that the legal representatives of late Mukesh Pal Singh could have filed an appeal against order of dismissal. It ultimately disposed of the matter with a direction that all the evidence which may have been referred in the charge sheet or may have been led during the enquiry or

any other document or correspondence which may have taken place during the course of enquiry, shall also be provided to the legal representatives of late Mukesh Pal Singh.

20. A reading of the above decisions, though indicate that the disciplinary proceedings, if they are concluded prior to the death of the delinquent, would not be abated, but the availability of records / documents is one of the factors to be taken into consideration for continuation of the proceedings.

21. In the case on hand, the disciplinary action was initiated against the applicant, in the year 2008-09 and it is not known whether the relevant records / documents are available with the respondents. Be that as it may.

22. In the case of **Veeramma** referred to supra, her husband was visited with a show cause notice proposing punishment of stoppage of two annual increments with cumulative effect besides recovery of Rs.25,023-45 ps. Before final order was passed, her husband died. In view of the same, proceedings were issued stating that the disciplinary action against the deceased employee be treated as abated and the amount be recovered from the death-cum-retirement gratuity (DCRG). In the challenge laid against the same, the learned Tribunal held in favour of Smt.Veeramma. In the writ petition filed by the State against the said order, the Division Bench of the erstwhile Common High Court for the State of Telangana and the State of Andhra Pradesh, *inter alia*, held that in the absence of any determination of the employee's liability in the disciplinary proceedings, it is not permissible for

the employer to mulct the liability on the family of the deceased based on an enquiry report which has not been taken to its logical end.

23. In **Kaveti Prasannakumari's case**, an order of punishment of removal from service was imposed on one Mr.Jayarao by proceedings dated 17.01.2018. He filed an appeal before the appellate authority and during the pendency of the same, he died on 16.05.2018. Therefore, the appeal was disposed of modifying the penalty of "removal from service" to that of "compulsory retirement" with full benefits. Smt.Prasanna Kumari, wife of the deceased Jayarao, approached the concerned authorities with a request to grant all benefits as her husband died during the pendency of the disciplinary proceedings and the same was rejected. Challenging the same, she approached the Central Administrative Tribunal, Madras Bench. Initially, the Tribunal directed the authorities to consider the representation and as the same was rejected, she again approached the learned Tribunal. By an order dated 24.06.2021, the Tribunal directed the authorities to release the retiral benefits as well as family pension, treating the disciplinary proceedings abated. Aggrieved by the said order, the authorities filed W.P.No.2670 of 2021 before the High Court of Judicature at Madras. The learned Division Bench was not inclined to interfere with the order of the Tribunal and while dismissing writ petition, held as follows:

"It is seen that the Tribunal by following the judgment of the Supreme Court has categorically found that the appeal is continuation of the proceedings and consequent to the death of the deceased, whole disciplinary proceedings shall

stand abated and therefore, no punishment shall be awarded against late Jayarao. It is a settled law that the appeal is continuation of the proceedings and thus, the Tribunal has rightly abated the punishment against late Jayarao. Therefore, the respondents 1 and 2 are entitled to the entire retiral benefits and also the family pension.” (Para No.7)

24. In the present case, by not filing a separate writ petition against the common order passed in Review M.A.No.1493 of 2014 in O.A.No.5431 of 2013, the writ petition itself is rendered liable for dismissal. That apart, the respondents / writ petitioners failed to place any material, much less the relevant provisions which enables the Government to review the order passed by the 2<sup>nd</sup> respondent. Be that as it may. The learned Tribunal *vide* impugned order directed the respondents to reconsider the issue while setting aside the proceedings of the respondents. It is nothing but remanding the matter for fresh consideration. However, during the pendency of the writ petition, the applicant died and therefore, the proceedings have not attained finality logically.

25. In the light of the judgment in **Prasanna Kumari's case**, as also in the attending facts and circumstances of the case on hand, this Court is inclined to hold that the disciplinary action initiated against the applicant stands abated by reason of his death. Point No.2 is answered accordingly.

26. For the foregoing reasons, the writ petition is dismissed. However, in view of the conclusions arrived at by this Court that the disciplinary action stood abated against the applicant, the respondents shall release all the retiral

benefits including family pension, gratuity etc., to the respondent No.3 herein expeditiously, in any event, within a period of three (3) months. No costs. Consequently, all pending applications, if any, shall stand closed.

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**JUSTICE NINALA JAYASURYA**

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**JUSTICE TUHIN KUMAR GEDELA**

BLV  
Dt. 07.01.2026

**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA**  
**AND**  
**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

**W.P.No: 13686 of 2019**

*(Per Ninala Jayasurya, J)*

Date: 07.01.2026

BLV