



HC-KAR



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT APPEAL NO. 1641 OF 2024 (S-RES)

BETWEEN:

1. M/S KARNATAKA FOOD AND CIVIL
SUPPLIES CORPORATION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR,
NO. 16/1, MILLERS TANK BED AREA,
VASANTHANGAR, BEHIND AMBEDKAR BHAVAN,
BANGALORE - 560052.

...APPELLANT

(BY SMT. MANASI SHARMA., ADVOCATE)

AND:

1. SMT T NALINI
W/O T L DAYAKAR,
AGED ABOUT 55 YEARS,
RETIRED AS JUNIOR ASSISTANT,
KARNATAKA FOOD AND CIVIL SUPPLIES,
CORPORATION LTD.,
NO. 16/1, MILLERS TANK BED AREA,
VASANTHANGAR, BEHIND AMBEDKAR BHAVAN,
BANGALORE - 560052

RESIDING AT NO. 72,
KHB COLONY,
NEAR SRI RAMAKRISHNA VIDYAKULA SCHOOL,
HOOTAGALLI, MYSURU - 570018.
2. BOARD OF DIRECTORS OF
M/S KARNATAKA FOOD AND CIVIL





SUPPLIES CORPORATION LTD
REPRESENTED BY ITS CHAIRMAN,
NO. 16/1, MILLERS TANK BED AREA,
VASANTHNGAR, BEHIND AMBEDKAR BHAVAN,
BANGALORE - 560052.

...RESPONDENTS

(BY SRI. R.KRISHNAMURTHY, ADVOCATE FOR C/R-1;
VIDE COURT OURDER DATED:17.02.2025, NOTICE TO
R-2 IS DISPENSED WITH)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, PRAYING TO CALL FOR THE
RECORDS IN WP NO.36372/2015 AND GRANT THE APPELLANT
FOLLOWING RELIEFS AND SET ASIDE THE ORDER DATED
05/08/2024 PASSED BY THE LEARNED SINGLE JUDGE IN WP
NO.36372/2015, ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

Heard Smt. Manasi Sharma, learned counsel for the
appellant and Sri R. Krishnamurthy, learned counsel for
the caveator/respondent No.1.

2. Respondent No.1/petitioner being aggrieved by the
order dated 21.11.2014 inflicting the punishment of
withholding of two increments with cumulative effect and



forfeiting 50% of the salary for the period of compulsory retirement i.e., from 05.04.2006 to 12.01.2011 and treating the period from 21.11.2004 to 04.04.2006 as unauthorized absence without wages, filed W.P.No.36372/2015 after exhausting the Departmental remedies.

3. Respondent No.1/petitioner had joined the Office of the Corporation in the year 1986 as Junior Assistant on daily wage basis and thereafter, she was regularized as Junior Assistant in the year 1988. Respondent No.1/petitioner was on leave from 31.05.2004 to 30.06.2004. During this leave period, on 28.06.2004 she was transferred from the Head Office of the Corporation to the District Office at Hassan. On her representation, her transfer order was cancelled and she was retained at Head Office at Bangalore.

4. Respondent No.1/petitioner was issued the charge sheet dated 02.09.2005 containing following charges :-



- "1. You, Smt.T. Nalini, Junior Assistant have reported for duty in the Administration Section in the Head Office on 28-5-2004. Thereafter, from 31.5.2004 to till date, your are unauthorizedly absent from duty and have thus caused inconvenience to Office work.*
- 2. You Smt. T. Nalini, Junior Assistant, have shown disobedience to your higher authorities by not receiving and by not obeying the Transfer Order No.KFCSC/Adm/Est/JA/2004-05/1706, dated 28/29-6-2004 and Relieving Order No.KFCSC/Adm/Est/135/PF/2004-05, dated 7/8-7-2004.*
- 3. You, Smt.T. Nalini, Junior Assistant, have brought political pressure for modifying your transfer order. This amounts to misconduct under Rule 26 of KCS (Conduct) Rules, 1966."*
5. The Enquiry Officer did not find the three charges proved against the respondent No.1/petitioner.
6. The Disciplinary Authority considered the enquiry report and recorded his point of disagreement in respect of the findings recorded by the Enquiry Officer in respect of all three charges. Respondent No.1/petitioner was issued



notice dated 07.10.2011 intimating her, the point of disagreement over the findings recorded by the Enquiry Officer in respect of three charges and her response to the point of disagreement was called for. Respondent No.1/petitioner submitted her reply to the show-cause notice, after considering the reply, the show-cause notice was issued to respondent No.1/petitioner for proposed punishment of postponing of two annual increments with cumulative effect and forfeiting 50% of the salary for the period under which respondent No.1/petitioner was compulsorily retired and did not work and therefore, treating the period of absence from 21.11.2004 to 04.04.2006 as unauthorized absence from service, without wages.

7. Learned Single Judge in the impugned judgment after placing reliance on the judgment in **PUNJAB NATIONAL BANK AND OTHERS VS KUNJ BEHARI MISRA** reported in **(1998) 7 SCC 84** has held that before recording points of disagreement on the findings of the



Enquiry Officer on charges, the delinquent official was required to be given a notice.

8. Learned Single Judge was of the opinion that since the said procedure was not followed by the Disciplinary Authority, and said aspects was not properly considered by the Appellate Authority, punishment order as well as the Appellate order were unsustainable and set aside the same, and directed the employer/appellant to pay all the benefits, which the respondent No.1/petitioner would be entitled to i.e., from the date of compulsory retirement from 05.04.2006 till she attained the age of superannuation.

9. It is not in dispute that employees of the Corporation are governed by the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (for short '**the CCA Rules**'). Rule 11-A provides procedure for action on the inquiry report. Rule 11-A reads as under :-



"11-A. Action on the inquiry report. -

(1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 11 as far as may be.

(2) The Disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge record its reasons for such disagreement and record its own findings on such charge if the evidence on record is sufficient for the purpose.

(3) If the Disciplinary Authority having regard to its findings, on all or any of the articles of charge is of the opinion that [one or more of the penalties specified in Rule 8] should be imposed on the Government Servant, it shall, notwithstanding anything contained in Rule 12, make an order imposing such penalty;

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice on the penalties



proposed to be imposed on the Government Servant and such advice shall be taken into consideration before making any order imposing any penalty on the Government Servant."

10. The mandate of sub-rule (2) of Rule 11-A is that if the Disciplinary Authority disagrees with the findings of the Inquiring Authority on any article of charge, the Disciplinary Authority should record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose. Sub-Rule (3) provides that if Disciplinary Authority having regard to its findings, on all or any of articles of charge(s) is of the opinion that one or more penalties specified in Rule 8 should be imposed on the Government Servant, it shall, pass an order imposing such penalty.

11. Sub-rule (2) of Rule 11-A does not contemplate issuing any notice to the delinquent official at the stage of recording the point of disagreement on the findings of the inquiry officer on any of the charges. Before recording



final finding on the charge after considering the reply of the delinquent officer, the principles of Natural Justice has to be followed and in this case, it has been done by the Disciplinary Authority. The judgment in **PUNJAB NATIONAL BANK** (supra) does provide for such a course of action, where the Supreme Court has interpreted the sub-regulation (2) of Regulation 7 of the Punjab National Bank Officers Employees (Disciplinary and Appeal) Regulations 1977 (for short 'the **PNB Regulation**'). Regulation 7 of the PNB Regulation reads as under :-

" 7. Action on the Inquiry Report:

(1) The Disciplinary Authority, if it is not itself the Inquiring Authority, may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for fresh or further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Regulation 6 as far as may be.

(2) The Disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for such



disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the Disciplinary Authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in Regulation 4 should be imposed on the officer employee it shall, notwithstanding anything contained in Regulation 8, make an order imposing such penalty.

(4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the officer employee concerned."

12. Sub-regulation (2) of Regulation 7 of the aforesaid Regulation is pari materia to sub-rule (2) of Rule 11A of the Karnataka Civil Services (Classification Control and Appeal) Rules (for short '**the CCA Rules**'). In paragraph 11 of the judgment in **PUNJAB NATIONAL BANK** (*supra*), the Supreme Court has held as under :-



"11. The controversy in the present case, however, relates to the case where the disciplinary authority disagrees with the findings of the enquiring authority and acts under Regulation 7(2). The said sub-regulation does not specifically state that when the disciplinary authority disagrees with the findings of the enquiring authority an is required to record its own reason for such disagreement and also to record its own finding on such charge, it is required to give a hearing to the delinquent officer."

13. Paragraph 19 on which the learned counsel for respondent No.1/petitioner has heavily relied on, also does not provide for an opportunity of hearing, before recording the points of disagreement. The Supreme Court has held that the report of the Enquiry Officer containing its findings will have to be conveyed to the delinquent officer, who will have an opportunity to convince the Disciplinary Authority to accept the favourable conclusion of the Enquiry Officer and the principles of natural justice have to be followed before taking a final decision i.e., before imposing the penalty.



14. Paragraph 19 of **PUNJAB NATIONAL BANK** (supra) reads as under :-

"19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed. require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation, before the disciplinary authority records its findings on the charges framed against the officer."

15. Therefore, we are of the considered view that learned Single Judge has erred in holding that sub-rule(2) of Rule 11A of the CCA Rules contemplates providing an



opportunity to the delinquent officer before recording the point of disagreement on the charge(s) on the findings of the Enquiry Officer on the charge(s). Having considered the explicit provisions in the Rules and Judgment in ***Punjab National Bank***, we are of the view that no such opportunity is required to be given to the delinquent officer under sub-rule (2) of Rule 11-A of the CCA Rules at the stage of recording the points of disagreement on the findings of Enquiry Officer of any of the charge(s).

16. Thus, we set aside the impugned judgment and order passed by the learned Single Judge. However, considering the fact that respondent No.1/petitioner has been leading a difficult life inasmuch as she has a mentally retarded grown up daughter, now aged 35 years, and she could not focus on her service, because of the need to attend to her mentally retarded grown up daughter, the punishment inflicted on respondent No.1/petitioner for withholding two increments with cumulative effect, is shockingly disproportionate to the misconduct committed by



respondent No.1, particularly when the Enquiry Officer did not find the charges proved. Therefore, the first punishment of withholding of two increments with cumulative effect is modified to withholding of one increment with cumulative effect. Insofar as the third punishment is concerned, we direct that the absence period from 21.11.2004 to 04.04.2006 should be treated for continuity of service, without payment of salary for the said period on the principle of 'No work, no pay'.

17. Thus in view of the aforesaid, the writ appeal is ***disposed*** of in the aforesaid terms.

18. In view of disposal of the appeal, pending interim applications, stands disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(RAJESH RAI K)
JUDGE**