



**HIGH COURT OF ANDHRA PRADESH**  
THURSDAY ,THE FIFTEENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

**WRIT PETITION NO: 1595 OF 2022**

**Between:**

1. Smt. Madala Sridevi, W/o Kongara Siva Rama Krishna Prasad,  
Hindu, aged about 46 years, Woman Head Constable-500  
(under the orders of Compulsory Retirement),  
R/o Andhra Prabha Colony, Singh Nagar,  
Vijayawada-520015

**...PETITIONER(S)**

**AND:**

1. Union of India ,  
Rep., by the Secretary to the Government of India, Ministry of Railways,  
Railbhavan, New Delhi.
2. The Director General, R.P.F. New Delhi - 110001.
3. Chief Security Commissioner, RPF, South Central Railway,  
Secunderabad.
4. Senior Divisional Security Commissioner, RPF -cum- Disciplinary  
Authority,  
Vijayawada Division, South Central Railway,  
Vijayawada.

**...RESPONDENTS**

**Counsel for the Petitioner(s): PARDHA SARADHI A V**

**Counsel for the Respondents: J U M V PRASAD (CENTRAL  
GOVERNMENT COUNSEL)**

**The Court made the following: ORDER**



**HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

**WRIT PETITION No.1595 OF 2022**

**ORDER:**

Heard Sri A.V. Pardhasaradhi, learned Counsel for the Writ Petitioner and Sri J.U.M.V. Prasad, learned Standing Counsel for the Central Government.

2. The present Writ Petition is filed by the Women Head Constable bearing No.500 working in the Railway Protection Force challenging the Appellate Proceedings bearing Force Order No.87/2021 dated 13.08.2021 passed by Respondent No.3 herein namely the Chief Security Commissioner, Railway Protection Force, South Central Railways, Secunderabad. By the Impugned Order, Respondent No.3 had modified the punishment of removal from service to that of compulsory retirement.

**BRIEF FACTS**

3. The case of the Writ Petitioner is that on 18.02.2021 at about 11.00 A.M, she has received a phone call from the Inspector/Post Commander to report immediately at Rayanapadu Post. Upon reporting, the Inspector/Post



Commander had shown video clipping which is said to have been uploaded in Youtube about seven days ago, showing that the Writ Petitioner has demanded a bribe of Rs.200/- from a lorry driver for allowing lorry inside the workshop and finally settled and accepted bribe amount of Rs.100/- from the lorry driver. The said video clipping was confirmed by the statement of P.W.3, who was the truck driver who is alleged to have recorded the entire video. Charges were framed and enquiry was conducted. The Enquiry Report dated 16.04.2021 was forwarded to the Disciplinary Authority. After issuing Show Cause Notice, after considering the elaborate explanation of the Writ Petitioner, the Disciplinary Authority, by Proceedings bearing Divisional Order No.36/2021 dated 17.05.2021 imposed the punishment of removal from service.

4. Learned Counsel for the Writ Petitioner has contended that the entire enquiry was initiated and punishment was inflicted basing on the sole evidence of the video and that the video clipping is a morphed one and that she took Rs.100/- from her husband for the bus charges because she has forgotten her handbag at home. It is contended that the video clipping which is marked in the evidence ought not to have been considered because the truck driver has turned hostile.



5. Sri J.U.M.V. Prasad, learned Standing Counsel for the Central Government has contended that the video clipping is not a morphed one. Video is very clear that the Writ Petitioner was blatantly demanding Rs.200/- from the lorry driver as bribe to allow the lorry to be taken into workshop. He further submits that upon negotiations, the Writ Petitioner has brought-down her illegal demand from Rs.200/- to Rs.100/-. The audio-visual evidence in the form of the video clipping is absolutely clinching and unimpeachable. Learned Counsel contended that the evidence that is required in Departmental Proceedings is one of preponderance of probability but not proof beyond reasonable doubt. The strict rules of evidence which are only applicable in Criminal Proceedings and Quasi-criminal proceedings are not applicable in the Departmental Proceedings. He had contended that the punishment inflicted upon the Writ Petitioner is based upon the video clipping and that the punishment inflicted on the Writ Petitioner is justified. He further submitted that the Appellate Authority had taken lenient view by considering her personal circumstances and converted the removal from service and modified removal from service to one of compulsory retirement and prayed that it is not a fit case that warrants any interference by this Court.



6. During the course of argument, since the learned Counsel for the Writ Petitioner based his submissions on the premise that the video is a morphed one, this Court has in fact seen the contents of the video clipping which is filed in the form of a CD along with the material papers as Ex.P.17 (Compact Disc). On watching of the said video clipping (Ex.P.17), the Court could gather that it was the Writ Petitioner who was demanding Rs.200/- and that even while the truck driver was bargaining to reduce the amount, the Writ Petitioner did not relent for a long time. It is also seen in the video that she had finally reduced her demand from Rs.200/- to Rs.100/- and had accepted the same from the truck driver. It is also noticed from the record, more particularly from the Impugned Order, that the Writ Petitioner has taken different stands for justifying that the money that was taken from the lorry driver was not bribe, but it is from her husband. In this regard, the Appellate Authority has noted that she has taken two inconsistent stands to explain her case.

7. Learned Counsel for the Writ Petitioner has relied on certain Judgments. Learned Counsel has cited **Roop Singh Negi Vs. Punjab National Bank & Ors (2009) 2 SCC 570** and relied on Para No.10 therein to state that a Departmental



Proceeding is a quasi-judicial proceeding. The Enquiry Officer performs a quasi-judicial function and also the charges levelled against the Delinquent Officer must be found to have been proved. Learned Counsel for the Writ Petitioner states that in the present case, the charges against the Writ Petitioner has not been proved by the Department.

8. Learned Counsel for the Writ Petitioner has also cited Para Nos.26 to 28 of a Judgment of the Apex Court in **State of U.P & Ors Vs. Saroj Kumar Sinha(2010) 2 SCC 772)** and also a Judgment of Hon'ble Division Bench of High Court of Gujarat in **Jaykant Ravjibhai Tandel Vs. Director General.** In the said case, the person who recorded the video was neither identified nor examined. The Court found that the person who twitted has also not been examined, and on this premise the Disciplinary Proceedings were set aside.

9. Sri J.U.M.V.Prasad, Ld. Standing Counsel for the Central Government, in support of his case, has cited the following Judgments:

**1) (1995) 6 SCC 749 (B.C.Chaturvedi Vs. Union of India) (Paragraph Nos.12, 13, 17 & 18).**

**2) (1996) AIR (SCW) 3052 (State of Tamil Nadu Vs. Thiru K V Perumal and others) (Paragraph Nos.3 & 4).**



**3) (2005) 10 SCC 84 (Damoh Panna Sagar Rural Regional Bank Ltd and another Vs. Munna Lal Jain) (Paragraph Nos.12 & 15 to 17)**

Relying on the said Judgments, the Ld. Standing Counsel would contend that the scope of Judicial Review is limited to that of deficiency in decision-making process, but not the decision itself.

**ANALYSIS / DISCUSSION:**

10. As stated by the Court in the preceding paragraphs, the Court itself has watched the video clipping (Compact Disc), wherein the Writ Petitioner was found to be demanding for Rs.200/- and finally had accepted Rs.100/- which is clearly visible. The audio-visual video (in the form of Compact Disc) is very clear in terms of the audio effect as well as the visual effect. This Court is of the view that this one single evidence (CD-Ex.P17) is absolutely clinching against the Writ Petitioner.

11. This is a case of *res ipsa loquitur* (things speak to themselves). *Res ipsa loquitur* is a rule of law that when things are so glaring and visible, it does not require any additional proof to be adduced against the person who is impeaching the evidence. The present case squarely falls within the *Doctrine of res ipsa loquitur* and there is overwhelming evidence on record



to indicate that the Writ Petitioner has in fact demanded Rs.200/- as bribe and finally accepted Rs.100/- from the lorry driver.

12. In **Karnataka State Road Transport Corporation Vs B.S. Hullikatti (2001) 2 SCC 574**, the Apex Court held as under:

*“5. On the facts as found by the Labour Court and the High Court, it is evident that there was short-changing of the fare by the respondent from as many as 35 passengers. We are informed that the respondent had been in service as a Conductor for nearly 22 years. It is difficult to believe that he did not know what was the correct fare which was to be charged. Furthermore, the appellant had during the disciplinary proceedings taken into account the fact that the respondent had been found guilty on as many as 36 times on different dates. Be that as it may, the principle of res ipsa loquitur, namely, the facts speak for themselves, is clearly applicable in the instant case. Charging 50 paise per ticket more from as many as 35 passengers could only be to get financial benefit, by the Conductor. This act was either dishonest or was so grossly negligent that the respondent was not fit to be retained as a Conductor because such action or inaction of his is bound to result in financial loss to the appellant Corporation.*

*6. It is misplaced sympathy by the Labour Courts in such cases when on checking it is found that the Bus Conductors have either not issued tickets to a large number of passengers, though they should have, or have issued tickets of a lower denomination knowing fully well the correct fare to be charged. It is the responsibility of the Bus Conductors to collect the correct fare from the passengers and deposit the same with the company. They act in a fiduciary capacity and it would be a case of gross misconduct if knowingly they do not collect any fare or the correct amount of fare.”*





13. In **U.P. State Road Transport Corporation Vs. Suresh Chand Sharma ((2010) 6 SCC 555)**, the Apex Court held as under:

*“16. In State of Haryana v. Rattan Singh [(1977) 2 SCC 491 : 1977 SCC (L&S) 298 : AIR 1977 SC 1512] this Court has categorically held that in a domestic enquiry, complicated principles and procedure laid down in the Code of Civil Procedure, 1908 and the Evidence Act, 1872 do not apply. The only right of a delinquent employee is that he must be informed as to what are the charges against him and he must be given full opportunity to defend himself on the said charges. However, the Court rejected the contention that the enquiry report stood vitiated for not recording the statements of the passengers who were found travelling without ticket. The Court held as under : (SCC pp. 493-94, para 5)*

*“5. ... We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the re-evaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the Administrative Tribunal. In conclusion, we do not think the courts below were right in overturning the finding of the domestic tribunal.”*

14. As indicated earlier, the Appellate Authority namely Respondent No.3 - Chief Security Commissioner, Railway Protection Force, South Central Railways, Secunderabad, in the Impugned Order, in fact, did not agree with any of the contentions raised by the Writ Petitioner. On the other hand, the said Respondent No.3 has in fact affirmed each and every finding in the Enquiry Report as well as the Order passed by the Disciplinary Authority but had modified the said Order of



termination from service to that of compulsory retirement purely on humanitarian grounds without citing the statutory power available to him to modify the punishment without varying with the findings of the Disciplinary Authority. It is necessary to extract the relevant portion as under:

*“It is observed from the records, that, the appellant has given contradictory statements. She has declared that she is in possession of Rs.275/- as personal cash before mounting and dismounting for duties on 10.02.2021 and signed personally in the concerned register at Rayanapadu Post. Whereas in her statement to PW-1, she submitted that, she forgot her handbag and called her husband and took Rs.100/- towards her bus fare, it is clearly evident that she deliberately intends to cover up the issue. Hence, the contentions of the appellant is not maintainable.*

*However, considering the plea of the appellant that she has lost her livelihood and being the only earning member in the family consisting of two daughters who are pursuing their studies and the fact that she has rendered 22 years of service without any adverse remarks. I take a lenient view, purely on humanitarian grounds and modify the punishment of “Removal from service” to that of “Compulsory Retirement from service”. The period of suspension from 18.02.2021 to 17.05.2021 is treated as suspension only.”*

15. In view of the aforesaid discussion, Writ Petition is dismissed with exemplary costs of Rs.10,000/- (Rupees ten thousand). The costs shall be paid within a period of four weeks by remitting the same to the Account of High Court Bar Association, Amaravati. Interlocutory Applications, if any, stand disposed of in terms of this order.



**TO BE TAKEN-UP SUO-MOTU:**

16. In the present case, the Order of removal of service of Writ Petitioner by the Disciplinary Authority was modified by the Appellate Authority purely on humanitarian grounds. The Apex Court has been time and again cautioning the executive, the quasi-judicial and judicial institutions not to indulge in extending misplaced sympathies where the alleged delinquency involves moral turpitude. The removal/dismissal from service and compulsory retirement have different legal connotations with distinct consequences. In the case of removal/dismissal from service, the Delinquent Officer would not be entitled for pensionary benefits while it also carries with it a stigma barring the delinquent officer seeking state-employment in the future. Whereas, in a case of 'compulsory retirement', the stigma of delinquency complained of gets obliterated by giving an opportunity to the Delinquent Officer to seek fresh state-employment, since the stigma of termination from service on account of being involved in an act of moral turpitude would be obliterated; and, *the benefit of receiving pensionary benefits from out of the 'Public Funds' is also extended.* This Court is seriously



concerned with the latter part namely, the whimsical doling-out of 'Public Funds' in the form of 'Pension'.

**“MISPLACED SYMPATHY”:**

17. If the case does not warrant consideration on merits, then, merely because the Delinquent Officer has children to be looked after or for any other reason, the Appellate Authority cannot obliterate the consequence which is inseparably attached to the act of moral turpitude without giving a finding on facts that the delinquency complained against the Officer has not been proved. Similarly, having a blemishless record for the past 20 years or so also cannot be a reason for extending humanitarian considerations in a case of this nature and such a gesture is only a nuance of “misplaced sympathy” which is deprecated by the Hon’ble Apex Court.

18. In other words, without giving a finding of fact to the effect that the charge against the Delinquent Officer has not been proved; on sheer sympathetic grounds (rather misplaced), the Appellate Authority cannot modify the Order of termination to one of compulsory retirement. Such misadventures by the Appellate Authority have a serious bearing on the public exchequer, since the public money has to be doled-out as



pension for the life time of the Delinquent Officer as well as to the spouse by using-up the scarce public funds.

**RESTRICTION ON EXECUTIVE POWER:**

19. In the case of ***Karnataka State Road Transport Corporation Vs B.S. Hullikatti (2001) 2 SCC 574***, the Hon'ble Apex Court has cautioned even the Labour Court not to extend misplaced sympathies in cases involving corruption which is a nuance of moral turpitude. When the Hon'ble Apex Court has cautioned even a Judicial Forum like that of a Labour Court not to extend misplaced sympathies in cases involving corruption and moral turpitude, the Executive are completely prohibited in entering into such an arena, for, the Executive cannot exercise the 'royal-prerogative' of doling-out charities whimsically.

20. In the present case, the Appellate Authority, in fact, has entered into a misadventure of according undue sympathy on humanitarian grounds without setting aside the act of moral turpitude on the part of the Writ Petitioner. This kind of approach by the Appellate Authority is 'very strongly deprecated' by this Court. It is already indicated that such misplaced sympathy would cast serious bearing on the public funds.



21. This Court has very carefully considered the bundle of facts involved in the present case. Having done so, the interference by the Appellate Authority (namely the Chief Security Commissioner/RPF/SCR) in a condescending and overbearing manner has shocked the conscience of this Court in passing the Impugned Order dated 13.08.2021 for the following reasons:

a) that the Appellate Authority has not traced to any statutory provision that empowers the Authority to modify the punishment without having the factual support in that regard;

b) that the Appellate Authority has not acted responsibly in doling-out public fund to an unscrupulous employee charged, enquired and punished with such punishment with the foundation of a moral turpitude;

c) that the concerned Officer who is officiating as the Appellate Authority, by doling-out public fund to a delinquent without the Authority of Law, has rendered himself/herself liable for disciplinary action for causing loss to the public exchequer in a reckless manner; and

d) that the Respondent Nos.1, 2 and 4 have impliedly given an approval to the misplaced sympathy showered by the Respondent No.3 in



favour of the Writ Petitioner contrary to the settled Law of this land;

22. It is in these circumstances, this Court, having considered the finding of the Appellate Authority dated 13.08.2021 (Ex.P15), is inclined to take up the hither-to mentioned issues *Suo-Motu* to enquire into whether the decision rendered by the Appellate Authority in this case is legally sustainable or otherwise.

23. It is not only surprising but shocking that the Union of India, Represented by the Secretary to the Government of India, Ministry of Railways, Railbhavan, New Delhi (Respondent No.1), the Director General, R.P.F., New Delhi (Respondent No.2) and the Senior Divisional Security Commissioner, RPF-cum-Disciplinary Authority, Vijayawada Division, South Central Railway, Vijayawada (Respondent No.4) have only remained 'mute' as Respondents without challenging the perverse Order of the Appellate Authority dated 13.08.2021 bearing No.X/P.227/153/Appeal/ MS/WHC/RYP-BZA/2021 (Ex.P15). More surprising to this Court is also that the concerned Authorities have not initiated any Criminal Proceedings under Indian Penal Code and Prevention of



Corruption Act, in a case of this nature with glaring and gross facts.

24. This Court is *prima-facie* of the opinion that the Respondent No.3, namely the Chief Security Commissioner/RPF/SCR-cum-Appellate Authority has unduly showered unwarranted bounties on the Writ Petitioner by misuse of his discretion while exercising his appellate power to the extent of adversely effecting the public revenue and public interest in a case of this nature. The legitimacy of the actions of the Respondent No.3 is, writ large, found to be wanting in this case and this Court is of *prima-facie* opinion that the said Order dated 13.08.2021 bearing No.X/P.227/153/Appeal/MS/WHC/RYP-BZA/2021 is grossly perverse.

25. In view of the above *prima-facie* findings, this Court is constrained to direct the Registry to register a case as **Suo-Motu Taken Up Case** and issue Notices to the following parties returnable in four weeks:

- i. Smt. Madala Sridevi (Writ Petitioner in W.P.No.1595 of 2022).
- ii. Union of India, Represented by the Secretary to the Government of India, Ministry of Railways, Railbhavan, New Delhi.





- iii. The Director General, R.P.F., New Delhi.
- iv. The Chief Security Commissioner, RPF, South Central Railway, Secunderabad.
- v. The Senior Divisional Security Commissioner, RPF-cum-Disciplinary Authority, Vijayawada Division, South Central Railway, Vijayawada.
- vi. Sri Ramesh Chandra, Chief Security Commissioner/RPF/SCR-Appellate Authority.

26. Each of the parties mentioned hereinabove, shall file personal Affidavits meeting with the observations of this Court as given above.

27. In the meantime, this Court deems it appropriate to forthwith suspend all the benefits that flow to the Writ Petitioner from the Force Order No.87/2021 dated 13.08.2021 including but not limited to pension and it is so ordered. The Registry is directed to preserve the record in W.P.No.1595 of 2022 including the Compact Disk filed as Ex.P.17 in the present Writ Petition.

28. Registry is directed to send a copy of this Order to the above mentioned parties along with the Notice and also place a copy of this Order in the *Suo-Motu* Taken-Up Case and



list the *Suo-Motu* Taken-Up Case after obtaining directions from the Hon'ble The Chief Justice.

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**(G. RAMAKRISHNA PRASAD,J)**

Dt: 15.06.2023.  
JKS/SDP

L.R Copy to be marked : [YES / NO]



**HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

**WRIT PETITION No. 1595 OF 2022**

**15.06.2023**

JKS/SDP