



**HIGH COURT OF ANDHRA PRADESH**  
WEDNESDAY ,THE TWENTY NINETH DAY OF JUNE  
TWO THOUSAND AND TWENTY TWO

**PRESENT**

**THE HONOURABLE SRI JUSTICE A V SESA SAI**  
**THE HONOURABLE SMT JUSTICE V.SUJATHA**  
**WRIT PETITION NO: 3310 OF 2013**

**Between:**

1. M.CHANDRASEKHAR, WG DIST s/o Late Abraham  
aged 52 years,  
Caste: SC Madiga,  
Occ: Former Field Assistant, Junior Civil Judge's Court, Chintalapudi,  
West Godavari District.

**...PETITIONER(S)**

**AND:**

1. GOVT.OF AP,PRL.SCY,LAW,HYD,& 2 Rep. by its Principal Secretary,  
Department of Law,  
Secretariat,  
Hyderabad.
2. The Registrar General, High Court of A.P., Hyderabad.
3. The District Judge, West Godavari District At Eluru.

**...RESPONDENTS**

**Counsel for the Petitioner(s): G RONALD RAJU**

**Counsel for the Respondents: GP FOR LABOUR**

**The Court made the following: ORDER**



**\*THE HON'BLE SRI JUSTICE A.V.SESHA SAI  
AND**

**\*THE HON'BLE SMT.JUSTICE V.SUJATHA**

**+WRIT PETITION No.3310 OF 2013**

**%29.06.2022**

**Between:**

#M.Chandrasekhar, S/o Late Abraham aged 52 years Caste SC  
Madiga Occ Former Field Assistant Junior Civil Judges Court  
Chintalapudi West Godavari District.

... Petitioner

**And**

\$ The Government of A.P.,  
Rep., by its Principal Secretary, Department of Law Secretariat  
Hyderabad & two others.

.. Respondents

**! COUNSEL FOR THE PETITIONER:** Ms.G.Amulya, representing  
Sri G.Ronald Raju.

**^ COUNSEL FOR THE RESPONDENT No.1:** Government Pleader for  
Labour.

**^COUNSEL FOR THE RESPONDENT Nos.2 & 3** : Sri Posani  
Venkateswarlu.

< Gist:

>Head Note

? Cases referred

<sup>1</sup> (2010) 10 SCC 539



**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**AND**

**THE HON'BLE SMT.JUSTICE V.SUJATHA**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? Yes/No
  
2. Whether the copies of judgment may be  
Marked to Law Reporters/Journals. Yes/No
  
3. Whether Their ladyship/Lordship wish  
to see the fair copy of the Judgment? Yes/No

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**A.V.SESHA SAI, J**

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**V.SUJATHA, J**



**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**AND**

**THE HON'BLE SMT JUSTICE V.SUJATHA**

**WRIT PETITION No.3310 OF 2013**

**ORDER:** (per Hon'ble Sri Justice A.V.Sesha Sai)

In the present Writ Petition, challenge is to the order passed by this Court on administrative side *vide* D(D) A.No.25-10-2012, confirming the order of the third respondent *vide* D.E.No.5/2010, dated 17.11.2011.

2. Briefly stated, the facts and circumstances, leading to filing of the present Writ Petition, are as follows:

Petitioner herein was initially appointed as an Attender (Office Subordinate) in the Court of the Special Judicial First Class Magistrate, Eluru. The disciplinary authority-third respondent herein issued a Charge Memo, framing the following Article of Charge against the petitioner herein:

*"That Sri M.Chandra Sekhar, Field Assistant, Junior Civil Judge, Jangareddigudem, has abstained from duty, from 03.05.2010 to 13.05.2010 and again from 25.06.2010 to 16.07.2010, without prior permission or sanction from the Presiding Officer and caused great inconvenience to the Officer, and was frequently, abstaining from duty as such, which facts, if proved, which amounts to dereliction of duty, indiscipline and misconduct, which is unbecoming of a public servant on his part, punishable under A.P.C.S.(CCA) Rules, 1991".*

3. In response to the said Charge Memo and the allegations contained therein, petitioner herein submitted a Written Statement of Defence. Being dissatisfied with the said Written



Statement, the disciplinary authority appointed an Enquiry Officer, who submitted a report, dated 23.04.2011, holding the charge as proved.

4. Thereafter, the disciplinary authority, while communicating a copy of the said Enquiry Officer's report, called for explanation from the petitioner *vide* letter, dated 24.06.2011. In response to the same, petitioner herein submitted his final representation/explanation on 04.07.2011. Subsequently, the disciplinary authority issued a show cause notice, dated 09.08.2011, calling upon the petitioner herein to show cause as to why a major punishment of removal from service should not be imposed against the petitioner. Petitioner herein sought extension of time for submitting explanation and the same came to be rejected by the learned Principal District Judge, West Godavari District, Eluru *vide* proceedings, dated 01.11.2011, but, earlier, such extensions were granted in favour of the petitioner herein.

5. Eventually, third respondent herein, by way of proceedings in D.E.No.5/2010, imposed on the petitioner the punishment of compulsory retirement from service. Aggrieved by the said order of punishment, passed by the primary authority, petitioner herein preferred a Statutory Appeal before this Court on the administrative side. Second respondent herein *vide* the order in D(D)A.No.02/2012, dated 25.10.2012, dismissed the said appeal and confirmed the order of punishment.



6. In the above background, assailing the validity and the legal sustainability of the orders passed by the primary and the appellate authorities, referred to supra, the present Writ Petition came to be instituted. A counter-affidavit is filed by the second respondent herein and a reply is also filed by the petitioner herein to the same.

7. Heard Ms.G.Amulya, learned counsel representing Sri G.Ronald Raju, learned counsel for the petitioner on record, and Sri Posani Venkateswarlu, learned Standing Counsel for Respondents 2 and 3, apart from perusing the entire material available on record.

8. It is contended by the learned counsel for the petitioner that the questioned orders are highly erroneous, contrary to law and opposed to the very spirit and object of the provisions of the A.P.Civil Services (Classification, Control and Appeal) Rules, 1991. In elaboration, it is further submitted by the learned counsel that both the primary as well as the appellate authorities failed to consider the material available on record and, had the material been completely considered by the respondents in a proper perspective, the order impugned in the present Writ Petition would not have emanated. It is further submitted by the learned counsel that the order passed by the primary authority-third respondent herein is completely bereft of any reasons, muchless valid reasons, for arriving at the conclusions contained therein. It is further submitted that the respondent authorities grossly erred in taking into



consideration the past conduct of the petitioner for the purpose of inflicting the punishment and that the same is contrary to the judgment of the Hon'ble Apex Court in **Mohd. Yunus Khan v. State of Uttar Pradesh and others**<sup>1</sup>.

9. Per contra, it is maintained by Sri Posani Venkateswarlu, learned Standing Counsel for the respondents 2 and 3, that there is absolutely no error nor there exists any procedural infirmity in the impugned action and, in the absence of the same, the impugned orders are not amenable for any judicial review under Article 226 of the Constitution of India. It is further contended by the learned counsel that, having regard to the reasons assigned by the respondents 2 and 3 in the orders impugned, invocation of the jurisdiction of this Court, under Article 226 of the Constitution of India, is not permissible.

10. In the above background, now the issue which this Court is called upon to consider and answer in the present Writ Petition is:

*“whether the questioned orders are sustainable and tenable and whether the petitioner herein is entitled for any relief from this Court under Article 226 of the Constitution of India?”.*

11. The information available before this Court, in clear and vivid terms, discloses that the petitioner herein submitted Written Statement of Defence in response to the Charge Memo, and explanation in response to the letter, dated 24.06.2011, by virtue of which, the Enquiry Officer's report was communicated

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<sup>1</sup> (2010) 10 SCC 539



to the petitioner herein. There is absolutely no controversy with regard to the submission of the same by the petitioner herein.

12. A perusal of the order passed by the third respondent herein shows that the third respondent, obviously, on the basis of the past conduct of the petitioner herein, imposed the punishment of compulsory retirement on the petitioner herein. Except recording a finding that there was no change in the attitude of the petitioner, third respondent herein did not make any endeavour to consider the explanation offered by the petitioner herein in response to the letter, dated 24.06.2011. In fact, the material available on record shows that, when the disciplinary authority communicated the Enquiry Officer's report *vide* letter, dated 24.06.2011, petitioner herein submitted a representation/explanation, dated 04.07.2011, pointing out various infirmities in the Enquiry proceedings, but the same missed the attention of the third respondent, while passing the impugned order. Coming to the order passed by the appellate authority-second respondent herein-though the petitioner herein urged a number of grounds in the Memorandum of Grounds of Appeal, dated 15.12.2011, the same were also not considered by the second respondent.

13. In this context, it would be appropriate and apposite to refer to the judgment of the Hon'ble Apex Court in **Mohd. Yunus Khan's** case (referred to supra), wherein the Hon'ble Apex Court, at paragraph.37, held as follows:





*“In view of the above, we reach the following inescapable conclusions:-*

*I. Absence of appellant from duty as Guard Commander for 25 minutes was bona fide and permissible under the statutory rules. II. Imposition of punishment of punishment drill for 10 days for the said absence was unwarranted.*

*III. Protest by the appellant against the imposition of the said punishment could not warrant enhancement of punishment of the appellant for confinement in cell for ten days.*

*IV. Disobedience of the enhanced punishment could not, in this case, warrant initiation of disciplinary proceedings by the Commandant concerned against the appellant.*

*V. The Commandant could not himself become the Judge of his own cause.*

*VI. The Commandant could not appoint his own subordinate as the inquiry officer.*

*VII. The Commandant could have referred the matter to his superior officer for appropriate action in terms of Rules 1991. VIII. Once the Commandant concerned appeared as a witness himself in the enquiry, he could not pass the order of punishment. IX. The Authority who initiated the disciplinary proceedings against the appellant became a witness before the inquiry officer appointed by him, who is subordinate to him in his office and also accepted the enquiry report and passed the order of punishment. Thus, the order of punishment stood vitiated.*

*X. The Appellate Authority could not consider the past conduct of the appellant to justify the order of punishment passed by the disciplinary authority without bringing it to the notice of the appellant. XI. As the punishment order had been passed in violation of the statutory rules and the principles of natural justice as well, it is rendered null and void. Thus, it remained inexecutable. XII. Past conduct of an employee should not generally be taken into account to substantiate the quantum of punishment without bringing it to the notice of the delinquent employee.*

*XIII. The error of violating the principles of natural justice by the Disciplinary Authority has been of such a grave nature that under no circumstance can the past conduct of*



*the appellant, even if not satisfactory, be taken into consideration”.*

14. The principle laid down in the above referred judgment, in unequivocal terms, demonstrates that the past conduct of an employee cannot be the basis for inflicting the punishment. In the instant case, respondent authorities adhered to the said principle in breach.

15. In view of the above, this Court has absolutely no scintilla of hesitation nor any traces of doubt to arrive at a conclusion that the orders impugned in the Writ Petition are neither sustainable nor tenable in the eye of law.

16. For the aforesaid reasons, Writ Petition is allowed, setting aside the order, dated 17.11.2011, in D.E.No.5/2010, passed by the District Judge, West Godavari, Eluru as confirmed by the second respondent in appeal *vide* D(D).A.No.02/2012, C4(Con.), dated 25.10.2012, and, consequently, it is declared that the petitioner is entitled for all the consequential benefits for which he is entitled as per law. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

**A.V.SESHA SAI,J**

**V.SUJATHA,J**

29<sup>th</sup> June, 2022.  
*LR copy to be marked.*  
B/o  
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