



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 3<sup>RD</sup> DAY OF OCTOBER, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE N S SANJAY GOWDA**

**WRIT PETITION NO. 37511 OF 2012 (S-DE)**

**BETWEEN:**

1. SRI PAPE GOWDA  
AGED ABOUT 57 YEARS  
S/O CHANGE GOWDA  
R/O HOSAHALLI, NALA ROAD  
H 69/2, MANDYA CITY  
MANDYA.

...PETITIONER

(BY SRI. M.R.RAJAGOPAL, SENIOR COUNSEL APPEARING  
FOR SRI.H.N.BASAVARAJU., ADVOCATE)

**AND:**

1. STATE OF KARNATAKA BY ITS SECRETARY  
DEPARTMENT OF URBAN DEVELOPMENT & HOUSING  
VIDHANA SOUDHA,  
BANGALORE 560 001.
2. THE REGISTRAR, KARNATAKA LOKAYUKTHA  
M S BUILDING, DR AMBEDKAR VEEDHI  
BANGALORE 560 001.
3. THE ADDL. REGISTRAR OF ENQUIRIES  
KARNATAKA LOKAYUKTHA  
M S BUILDING, DR AMBEDKAR VEEDHI  
BANGALORE 560 001.
4. THE COMMISSIONER  
MANDYA MUNICIPAL COUNCIL  
MANDYA.

...RESPONDENTS

(BY SMT.PRATHIBHA.R.K., AGA FOR R-1;





SMT.MANJULA.D., SPP FOR R-2 & R-3;  
R-4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ENQUIRY REPORT OF THE 2ND RESPONDENT DATED 27.4.2011 VIDE ANNEXURE-N2 AND QUASH THE ORDER OF THE 1ST RESPONDENT DATED 27.8.2012 VIDE ANNEXURE-Q, ETC.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

1. A charge sheet was issued against the petitioner on 26.07.2006 alleging that he had not collected development charges/layout charges from one Sri R.Shivappa in respect of site No.106/1A measuring 70' X 130' of Kyathungere Village at the rate of Rs.6/- per sq. ft. and had issued an unauthorized khatha bearing No.KT 260/A in his favour.
2. The statement of imputations of misconduct annexed to the Article of Charges indicates that a khatha was issued on 01.06.1989 which contained an endorsement that the layout charges at the rate of Rs.6/- per sq. ft. i.e., Rs.5,340/- was



collected, but either the receipt/voucher number or the date for the above mentioned sum having been remitted, had been mentioned.

3. It is, therefore, clear from the Article of Charges that in respect of an allegation against the petitioner that he had issued an endorsement on 01.06.1989, a charge sheet was issued on 26.07.2006 i.e., nearly after 17 years.

4. It was one of the principal defences taken up by the petitioner that the initiation of departmental enquiry in respect of a charge of the year 1989, in the year 2006 was belated and could not have been initiated at all.

5. Notwithstanding the said defence, an enquiry was conducted and a report was submitted stating that the charge against the petitioner had been proved. This enquiry report has been accepted by the Disciplinary Authority and the order of compulsory retirement had been imposed on the petitioner and he was also directed to make good the loss of Rs.2,00,000/- stated to have suffered by the State. It is as against this order, that the present writ petition is filed.



6. As already stated above, the charge against the petitioner was that he had issued an endorsement on 01.06.1989 in which there was a statement that a sum of Rs.5,340/- had been collected, but in the said endorsement, the receipt number, date, etc., for having remitted the said amount had not been mentioned.

7. In respect of this endorsement of the year 1989, obviously, the charge sheet laid against the petitioner, 17 years thereafter in the year 2006, cannot be sustained. There is absolutely no reason put forth by the authorities for the inordinate delay in issuing the charge memo. The Enquiry Officer has also not taken into consideration this aspect of the matter, which fundamentally vitiated the entire enquiry. The defence taken by the petitioner has not at all been considered and the Enquiry Officer has proceeded to determine the matter on merits and has given a finding that the charges had been proved. The Disciplinary Authority has also not examined the specific defence taken by the petitioner regarding the inordinate delay in initiating the disciplinary proceedings against him.



8. It is settled by a series of decisions of the Apex Court that disciplinary enquiry should be initiated within a reasonable period and it would be unfair to permit the disciplinary enquiry to be initiated after a long lapse of time. Since, in the instant case, the enquiry proceedings were initiated 17 years after the alleged misconduct, in my view, the entire proceedings which has culminated in the impugned order cannot be sustained and the same is accordingly quashed.

9. However, since the petitioner has now attained the age of superannuation, he would not be entitled for reinstatement. Having regard to the principle of no work no pay, he would not be entitle for any backwages also, but he would only be entitled for continuity of service for the purposes of fixation of his pension.

10. Learned Senior Counsel submits that the terminal benefits of the petitioner, including the pension, has not been settled.

11. In that view of the matter, the respondents are directed to settle the terminal benefits including the pensionary benefits



of the petitioner, within a period of two months from the date of receipt of a copy of this order.

Writ Petition is accordingly allowed.

**Sd/-  
JUDGE**

PKS/List No.: 2 SI No.: 10