

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2021

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.5838/2020 (S-RES)

R

BETWEEN

SRI B. S. RAMASWAMY
S/O LATE SAVALEGOWDA,
AGED ABOUT 65 YEARS,
R/AT DOOR NO.1668,
E & F BLOCK,
8TH CROSS, RAMAKRISHNA NAGAR,
MYSORE-560023.

... PETITIONER

[BY SRI. MURUGESH H.M. ADVOCATE FOR
SRI. MANJESH H.M., ADVOCATE
(PHYSICAL HEARING)]

AND

1. STATE OF KARNATAKA
BY ITS SECRETARY TO GOVERNMENT,
URBAN DEVELOPMENT DEPARTMENT,
M.S. BUILDING, DR. AMBEDKAR VEEDHI,
BENGALURU-560 001.
2. MYSORE URBAN DEVELOPMENT AUTHORITY
J.L.B. ROAD,
MYSORE-570 001.
BY ITS COMMISSIONER.

3. SRI B. SRINIVAS RAO
THE ENQUIRY OFFICER,
NO.6, 3RD BLOCK, 2ND CROSS,
BEML LAYOUT,
SRIRAMPURAM,
MYSORE-570 008.
4. SRI SIDDEGOWDA
RTD. DISTRICT JUDGE,
THE ENQUIRY OFFICER,
MYSORE URBAN DEVELOPMENT AUTHORITY,
J.L.B. ROAD,
MYSORE-570 001.

RESPONDENTS NO.3 AND 4
ARE DELETED AS PER
THE ORDER OF THIS COURT
DATED 13.03.2020 ... RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING
TO QUASH THE IMPUGNED ENQUIRY PROCEEDINGS
INITIATED AND APPOINTED THE R-4 BY THE R-2 DATED
27.06.2018 WHICH IS PRODUCED AND MARKED AS
ANNEXURE-K TO THE WRIT PETITION AND ETC.

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

ORDER

The petitioner in this writ petition has called in question the order dated 27.06.2018, by which a *denovo* enquiry is directed to be initiated against the petitioner by appointment of a new Enquiry Officer on the same charge sheet that was issued earlier.

2. Brief facts leading to the filing of present petition are that, the petitioner was appointed as a First Division Assistant in respondent No.2 – Mysore Urban Development Authority (hereinafter referred to as 'Authority' for short) in the year 1996 and when the petitioner was functioning as a First Division Assistant, owing to certain omissions and commissions, by an official memorandum dated 09.12.2003, the Disciplinary Authority placed the petitioner along with others on suspension in contemplation of disciplinary proceedings. It transpires that in the year 2005, after

about two years, the order of suspension was revoked and petitioner was reinstated into services, after which, a charge sheet came to be issued against the petitioner on 06.04.2005. Four years after the issuance of charge sheet, the second respondent on 21.04.2009 appointed the Enquiry Officer and the Presenting Officer directing enquiry proceedings to be held in terms of the charge sheet dated 06.04.2005 and to be completed within three months.

3. The Enquiry Officer commenced the enquiry proceedings on 04.07.2009. After about 9 years when the Enquiry Officer encountered no co-operation from the hands of the Authority by either producing any document or witness in furtherance of the charge sheet, closed the enquiry and held the petitioner not guilty of the allegations and submitted a

report on 03.03.2018 holding the petitioner not guilty of the allegations.

4. On receipt of the report of the Enquiry Officer, the Disciplinary Authority - the Commissioner of Mysore Urban Development Authority again issued an order on 27.06.2018 directing a *denovo* enquiry to be conducted against the petitioner and others on the very same charge sheet that was issued on 06.04.2005, 13 years after the issuance of the charge sheet, pursuant to which, the enquiry proceedings are now conducted. The learned counsel appearing for respondent No.2 informs this Court that the enquiry proceedings are concluded and the Enquiry Officer has submitted his report on 28.10.2020. It is the order dated 27.06.2018 by which the Disciplinary Authority directed for initiation of a *denovo* enquiry against the petitioner that is called in question in the writ petition.

5. Heard the learned counsel, Sri.Murugesh H.M., appearing for the petitioner and the learned Additional Government Advocate, Smt. M.C. Nagashree, appearing for respondent No.1 and the learned counsel, Sri. T.P. Vivekananda, appearing for respondent No.2.

6. Learned counsel, Sri. Murugesh would submit that the charge sheet though was issued on 06.04.2005, the enquiry commenced only on 04.07.2009, after about 4 years of issuance of charge sheet. The proceedings went on upto 03.03.2018 for thirteen years at the Enquiry Officer finding that the second respondent has not produced any document to prove the allegations levelled against the petitioner and others for nine long years, closed the enquiry and held the petitioner not guilty of the allegations, a *denovo* enquiry on the same set of facts by a different

Enquiry Officer is without authority of law. On the ground that the disciplinary proceedings are pending none of the terminal benefits that the petitioner is entitled to is settled despite the petitioner retiring on attaining the age of superannuation during the pendency of the said enquiry proceedings on 31.01.2012.

7. On the other hand, the learned counsel, Sri.T.P. Vivekananda appearing for the second respondent would submit that pursuant to the denovo enquiry, the petitioner has participated in the enquiry proceedings and the enquiry Officer has submitted his report on 28.10.2020 and the Court, at this stage, should not interfere with the proceedings as it is premature, no order is passed by the Disciplinary Authority pursuant to the report of the Enquiry Officer.

8. I have given my anxious consideration to the respective submissions made by the learned counsel and perused the material on record.

9. The dates and events are not in dispute. The petitioner was initially placed under suspension contemplation of disciplinary proceedings on 09.12.2003 and the same was revoked in the year 2005 after issuance of charge sheet on 06.04.2005. The Disciplinary Authority took four long years to appoint an Enquiry Officer and a Presenting Officer to hold enquiry proceedings against the petitioner which was by an order dated 20.04.2009 with a direction to complete the enquiry and submit a report within three months. It is on this brief the Enquiry Officer commended his proceedings on 04.07.2009.

10. A perusal at the order sheet produced -- Annexure 'F' would indicate that for nine long years the Presenting Officer went on seeking time for production of evidence on behalf of the second respondent. It is at that stage the petitioner approached this Court in W.P.No.25788/2017 seeking a direction to the second respondent to complete the enquiry. This Court by its order dated 20.09.2017 directed completion of enquiry within three months after noticing the fact that the proceedings were pending for the last eight years. It is after the order passed by this Court, the Enquiry Officer who had a brief to complete in three months waiting for nine years concluded the proceedings holding that the petitioner was not guilty of the allegations.

11. It is to be noticed that the proceedings were protracted for thirteen years after issuance of the

charge sheet not on account of the petitioner, but on account of delay at every stage by the second respondent. At the outset, the second respondent took four years to appoint an Enquiry Officer to conduct proceedings against the petitioner in terms of the charge sheet and the Presenting Officer failed to produce any evidence for nine long years thereafter. Strangely, the Disciplinary Authority on receipt of the report of the Enquiry Officer dated 03.03.2018, who held the petitioner not guilty of the allegations as there was no evidence produced by the second respondent, appointed a new Enquiry Officer to conduct a *denovo* enquiry on the same charge sheet dated 06.04.2005 after 13 years of issuance of the said charge sheet.

12. The proceedings which are directed to be initiated pursuant to the order of *denovo* enquiry are

vitiated on two settled principles of law, first being, conduct of a *denovo* enquiry by a different Enquiry Officer merely because the Disciplinary Authority does not accept the findings of the Enquiry Officer in the light of the law laid down by the Apex Court in the case of ***K.R. Deb v. CCE*** reported in **(1971) 2 SCC 102** wherein it is held as follows:

*"12. It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the Disciplinary Authority may ask the Inquiry Officer to record further evidence. **But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the Inquiring***

Officer or Officers does not appeal to the Disciplinary Authority. *The Disciplinary Authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9."*

Later, the Apex Court following the afore-extracted judgment in the case of **Vijay Shankar Pandey v. Union of India** reported in **(2014) 10 SCC 589**, has held as follows:

"24. *Be that as it may, the question is whether the disciplinary authority could have resorted to such a practice of abandoning the enquiry already undertaken and resort to appointment of a fresh enquiring authority (multi-member)? The issue is not really whether the enquiring authority should be a single member or a multi-member body, but whether a second inquiry such as the one under challenge is permissible. A Constitution Bench of this Court in K.R. Deb v. CCE [K.R. Deb v. CCE,*

(1971) 2 SCC 102] , examined the question in the context of Rule 15(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1957. It was a case where an enquiry was ordered against a Sub-Inspector, Central Excise (the appellant before this Court). The enquiry officer held that the charge was not proved. Thereafter the disciplinary authority appointed another enquiry officer "to conduct a supplementary open inquiry". Such supplementary inquiry was conducted and a report that there was "no conclusive proof" to "establish the charge" was made. Not satisfied, the disciplinary authority thought it fit that "another enquiry officer should be appointed to inquire afresh into the charge".

25. The Court in K.R. Deb [K.R. Deb v. CCE, (1971) 2 SCC 102] held that: (SCC p. 105, paras 12-13)

"12. It seems to us that Rule 15, on the face of it, really provides for one

inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the disciplinary authority may ask the enquiry officer to record further evidence. But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the inquiring officer or officers does not appeal to the disciplinary authority. The disciplinary authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9.

13. In our view the Rules do not contemplate an action such as was taken by the Collector on 13-2-1962. It seems to us that the Collector, instead of taking responsibility himself, was determined to get some officer to report against the appellant. The procedure adopted was not

only not warranted by the Rules but was harassing to the appellant.”

(emphasis supplied)

and allowed the appeal of K.R. Deb [K.R. Deb v. CCE, (1971) 2 SCC 102] .

26. It can be seen from the above that the normal rule is that there can be only one enquiry. This Court has also recognised the possibility of a further enquiry in certain circumstances enumerated therein. **The decision however makes it clear that the fact that the report submitted by the enquiring authority is not acceptable to the disciplinary authority, is not a ground for completely setting aside the enquiry report and ordering a second enquiry.”**

(Emphasis applied)

Therefore, the act of the Disciplinary Authority in directing conduct of a denovo enquiry because the

authority did not accept the findings of the Enquiry Officer, is vitiated on account of the law laid down by the Apex Court in the afore-extracted cases *qua* the facts obtaining in the case at hand.

13. The next principle on which the present proceedings, impugned, would stand vitiated is on account of delay in directing conduct of a *denovo* enquiry, as it seeks to enquire into a chargesheet of the year 2005 in the year 2018. The law in this regard is again well settled that delay in initiation of enquiry or its continuance would prejudice and be agonizing to the employee. The Apex Court in the case of ***P.V. Mahadevan v. Managing Director, T.N. Housing Board*** reported in **(2005) 6 SCC 636** has held as follows:

"11. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental

*proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. **The protracted disciplinary enquiry against a government employee should, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the***

procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

12. We, therefore, have no hesitation to quash the charge memo issued against the appellant. The appeal is allowed. The appellant will be entitled to all the retiral benefits in accordance with law. The retiral benefits shall be disbursed within three months from this date. No costs."

(Emphasis applied)

14. In the light of enunciation of law by the Apex Court, the present proceedings are hit by delay as well. The case at hand is not a case where the second respondent did not have jurisdiction to enquire into the allegations, but a case of losing jurisdiction on account of gross delay. If the second respondent could not prove the allegations leveled against the petitioner in an enquiry that protracted for thirteen

long years, it would be unjust and unfair to let the employee be put through the rigmarole of conduct of disciplinary proceedings, all over again, more so, in the light of the fact that the petitioner has long ago retired on attaining the age of superannuation on 31.01.2012.

15. This Court notices with pain in umpteen number of cases where disciplinary proceedings are initiated by issuance of charge sheet and are not concluded within reasonable time and the employee against whom proceedings are pending is always kept on the tenterhooks of the proceedings and denied service and terminal benefits that would become available to him, but for the pendency and protraction of such proceedings apart from causing immense mental agony. It is not that the Government has not taken any steps to address this issue. The

Government has issued official memoranda from time to time fixing time limits for conduct and conclusion of departmental enquiries. The relevant official memorandum of this kind was issued on 31.05.1997 wherein the maximum time limit for conclusion of a departmental enquiry against a Government servant was capped at 21 months. This came to be subsequently modified by another official memorandum dated 28.06.2001 capping the time limit for conclusion of the enquiry on its initiation to 9 months. The aforesaid official memoranda read as follows:

“ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ಸಿಆಸುಇ 19 ಸೇಇವಿ 2001

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ,
ವಿಧಾನಸೌಧ,

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 28-06-2001.

ಅಧಿಕೃತ ಜ್ಞಾಪನ

ವಿಷಯ: ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಶಿಸ್ತು ಕ್ರಮವನ್ನು ಆರಂಭಿಸುವುದರಲ್ಲಿ,
ನಡೆಸುವುದರಲ್ಲಿ ಹಾಗೂ ಅಂತಿಮ ಗೊಳಿಸುವುದರಲ್ಲಿ ವಿಳಂಬವನ್ನು
ತಡೆಗಟ್ಟಲು ನಿಗದಿಪಡಿಸಲಾಗಿರುವ ಕಾಲಮಿತಿಯ ಪರಿಷ್ಕರಣೆ ಕುರಿತು.

ಉಲ್ಲೇಖ: ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ: ಸಿಆಸುಇ 14 ಸೇಇವಿ 96, ದಿನಾಂಕ: 31.5.1997.

1. ಸರ್ಕಾರಿ ನೌಕರನ ಮೇಲಿನ ಆಪಾದಿತ ದುರ್ನಡತೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಶಿಸ್ತಿನ ಕ್ರಮವನ್ನು ಆರಂಭಿಸುವುದರಲ್ಲಿ / ನಡೆಸುವುದರಲ್ಲಿ ಹಾಗೂ ಅಂತಿಮಗೊಳಿಸುವುದರಲ್ಲಿ ಉಂಟಾಗಬಹುದಾದ ವಿಳಂಬವನ್ನು ತಡೆಗಟ್ಟಲು ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ದಿನಾಂಕ: 31.5.1997ರ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ: ಸಿಆಸುಇ 14 ಸೇಇವಿ 96 ರಲ್ಲಿ ಸೂಚನೆಗಳನ್ನು ನೀಡಲಾಗಿದೆ. ಸದರಿ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಕಂಡಿಕೆ-7 ರಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಮುಗಿಸಲು ಕಾಲಮಿತಿಗಳನ್ನು ನಿಗದಿಪಡಿಸಲಾಗಿದೆ. ಆದರ ಸಂಬಂಧಿಸಿದ ಭಾಗವನ್ನು ಈ ಕೆಳಗೆ ಉದ್ಧರಿಸಿದೆ:-

	ಶಿಸ್ತಿನ ಕ್ರಮದ ಹಂತ	ಗರಿಷ್ಠ ಕಾಲಮಿತಿ
(ಎ)	ಸರ್ಕಾರಿ ನೌಕರರ ಅಕ್ರಮಗಳು : ದುರ್ನಡತೆಗಳು ಶಿಸ್ತಿನ ಪ್ರಾಧಿಕಾರದ ಗಮನಕ್ಕೆ ಬಂದ ದಿನಾಂಕದಿಂದ, ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸುವ ಸಲುವಾಗಿ ದಾಖಲೆಗಳನ್ನು ಪಡೆಯಲು ಅಥವಾ ಪ್ರಾರಂಭಿಕ ತನಿಖೆ : ವಿಚಾರಣೆಯನ್ನು ಅಂತಿಮಗೊಳಿಸಲು ಹಾಗೂ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸಿ, ಜಾರಿಗೊಳಿಸಲು;	06 ತಿಂಗಳು
(ಬಿ)	ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಗೆ ಸರ್ಕಾರಿ ನೌಕರನ ವಿವರಣೆಯನ್ನು ಪಡೆಯಲು ಹಾಗೂ ವಿಚಾರಣಾ ಅಧಿಕಾರಿ ಹಾಗೂ ಮಂಡನಾಧಿಕಾರಿಯನ್ನು ನೇಮಿಸಲು;	02 ತಿಂಗಳು
(ಸಿ)	ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಹಾಗೂ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಮಂಡಿಸಲು;	06 ತಿಂಗಳು
(ಡಿ)	ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲು ಹಾಗೂ ಅದನ್ನು ಸ್ವೀಕರಿಸುವ ಬಗ್ಗೆ ನಿರ್ಣಯಿಸಲು;	02 ತಿಂಗಳು
(ಇ)	ಕಾರಣ ಕೇಳುವ 2ನೇ ಸೂಚನಾ ಪತ್ರವನ್ನು ವಿಚಾರಣಾ ವರದಿಯ ಜೊತೆಗೆ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ನೀಡಲು;	02 ತಿಂಗಳು
(ಎಫ್)	ಅಂತಿಮ ಆದೇಶವನ್ನು ಹೊರಡಿಸಲು;	03 ತಿಂಗಳು

2. ಶಿಸ್ತಿನ ನಡವಳಿಗಳಲ್ಲಿ ನಿವೃತ್ತ ನ್ಯಾಯಾಧೀಶರನ್ನು ವಿಚಾರಣಾಧಿಕಾರಿಗಳಾಗಿ ನೇಮಿಸುವ ಪದ್ಧತಿಯನ್ನು ಕೆಲ ಸಮಯದ ಹಿಂದೆ ಜಾರಿಗೊಳಿಸಿದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ,

ಇಲಾಖಾ ವಿಚಾರಣೆಗಳನ್ನು ಆರಂಭಿಸಲು, ನಡೆಸಲು ಹಾಗೂ ಮುಗಿಸಲು ನಿಗದಿಪಡಿಸಲಾದ ಮೇಲೆ ನಮೂದಿಸಿದ ಕಾಲಮಿತಿಗಳನ್ನು ಸರ್ಕಾರವು ಸಮಗ್ರವಾಗಿ ಮರು ಪರಿಶೀಲಿಸಿ, ಪರಿಷ್ಕೃತ ಕಾಲಮಿತಿಗಳನ್ನು ನಿಗದಿಪಡಿಸುವುದು ಸೂಕ್ತವೆಂದು ಭಾವಿಸಿದೆ. ಅದರಂತೆ, ದಿನಾಂಕ: 31.05.1997ರ ಅಧಿಕೃತ ಚ್ಚಾಪನದ ಕಂಡಿಕೆ-7ನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ಪ್ರತಿಸ್ಥಾಪಿಸಲಾಗಿದೆ. (substituted):-

"ಶಿಸ್ತಿನ ನಡವಳಿಗಳಲ್ಲಿ ಅಗುವ ವಿಳಂಬಕ್ಕೆ ಮುಖ್ಯವಾಗಿ ಈ ಕೆಳಕಂಡ ಮೂರು ಕಾರಣಗಳೆಂದು ಕಂಡು ಬಂದಿದೆ:

(ಅ) ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸುವ ಸಲುವಾಗಿ ದಾಖಲೆಗಳನ್ನು ಪಡೆಯಲು ಅಥವಾ ಆರಂಭಿಕ ವಿಚಾರಣೆಯನ್ನು ಅಂತಿಮಗೊಳಿಸಲು ಶಿಸ್ತಿನ ಪ್ರಾಧಿಕಾರಿಗಳು ಮಾಡುವ ವಿಳಂಬ, (ವಿಚಾರಣಾ ಅಧಿಕಾರಿ ಹಾಗೂ ಮಂಡನಾಧಿಕಾರಿಗಳನ್ನು ನೇಮಿಸುವುದನ್ನೂ ಸಹ ಇಲ್ಲಿ ಸೇರಿಸಬಹುದು):

(ಆ) ವಿಚಾರಣೆಯನ್ನು ತ್ವರಿತವಾಗಿ ಮಾಡದೇ, ವಿಚಾರಣಾ ಅಧಿಕಾರಿಗಳು ಮಾಡುವ ವಿಳಂಬ; ಹಾಗೂ (ಇ) ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಉದ್ದೇಶ ಪೂರ್ವಕವಾಗಿ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸುವಲ್ಲಿ ಮಾಡುವ ವಿಳಂಬ.

ಶಿಸ್ತಿನ ಕ್ರಮ ಆರಂಭಿಸಿ, ಮುಗಿಸಲು ವಿವಿಧ ಹಂತಗಳಿಗಾಗಿ ಈ ಕೆಳಕಂಡ ಗರಿಷ್ಠ ಕಾಲಮಿತಿಗಳನ್ನು ನಿಗದಿಪಡಿಸಲಾಗಿದೆ. ಶಿಸ್ತಿನ ಪ್ರಾಧಿಕಾರಿಗಳು ಈ ಕಾಲಾವಕಾಶವನ್ನು ಕಟ್ಟುನಿಟ್ಟಾಗಿ ಪಾಲಿಸತಕ್ಕದ್ದು".

	"ಶಿಸ್ತಿನ ಕ್ರಮದ ಹಂತ	ಗರಿಷ್ಠ ಕಾಲಮಿತಿ
(ಎ)	ಸರ್ಕಾರಿ ನೌಕರರ ಅಕ್ರಮಗಳು : ದುರ್ನಡತೆಗಳು ಶಿಸ್ತಿನ ಪ್ರಾಧಿಕಾರದ ಗಮನಕ್ಕೆ ಬಂದ ದಿನಾಂಕದಿಂದ, ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸುವ ಸಲುವಾಗಿ ದಾಖಲೆಗಳನ್ನು ಪಡೆಯಲು ಅಥವಾ ಪ್ರಾರಂಭಿಕ ತನಿಖೆ : ವಿಚಾರಣೆಯನ್ನು ಅಂತಿಮಗೊಳಿಸಲು ಹಾಗೂ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ತಯಾರಿಸಿ,	1 ತಿಂಗಳು

	ಜಾರಿಗೊಳಿಸಲು;	
(ಬಿ)	ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಗೆ ಸರ್ಕಾರಿ ನೌಕರನ ವಿವರಣೆಯನ್ನು ಪಡೆಯಲು ಹಾಗೂ ವಿಚಾರಣಾ ಅಧಿಕಾರಿ ಹಾಗೂ ಮಂಡನಾಧಿಕಾರಿಯನ್ನು ನೇಮಿಸಲು;	1 ತಿಂಗಳು
(ಸಿ)	ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಹಾಗೂ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಮಂಡಿಸಲು;	4 ತಿಂಗಳು
(ಡಿ)	ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲು ಹಾಗೂ ಅದನ್ನು ಸ್ವೀಕರಿಸುವ ಬಗ್ಗೆ ನಿರ್ಣಯಿಸಲು;	1 ತಿಂಗಳು
(ಇ)	ಕಾರಣ ಕೇಳುವ 2ನೇ ಸೂಚನಾ ಪತ್ರವನ್ನು ವಿಚಾರಣಾ ವರದಿಯ ಜೊತೆಗೆ, ಆವಾದಿತ ಸರ್ಕಾರಿ ನೌಕರನಿಗೆ ನೀಡಲು;	1 ತಿಂಗಳು
(ಎಫ್)	ಅಂತಿಮ ಆದೇಶವನ್ನು ಹೊರಡಿಸಲು;	1 ತಿಂಗಳು

3. ಉಲ್ಲೇಖಿತ ದಿನಾಂಕ: 31.5.1997ರ ಅಧಿಕೃತ ಜ್ಞಾಪನದ ಕಂಡಿಕೆ- 8ರ ಮೊದಲನೆಯ ವಾಕ್ಯದಲ್ಲಿ "21 ತಿಂಗಳ" ಎನ್ನುವ ಪದಗಳನ್ನು "9 ತಿಂಗಳ" ಎನ್ನುವ ಪದಗಳಿಂದ ಈ ಮೂಲಕ ಪ್ರತಿಷ್ಠಾಪಿಸಲಾಗಿದೆ.

4. ಸರ್ಕಾರದ ಎಲ್ಲಾ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು, ಕಾರ್ಯದರ್ಶಿಗಳು, ಹಾಗೂ ಇಲಾಖಾ ಮುಖ್ಯಸ್ಥರು ಈ ಪರಿಷ್ಕೃತ ಸೂಚನೆಗಳನ್ನು ಚಾಚೂ ತಪ್ಪದೆ ಕಚ್ಚಾಯವಾಗಿ ಪಾಲಿಸಬೇಕು ಮತ್ತು ಇದನ್ನು ಸಂಬಂಧಪಟ್ಟ ಎಲ್ಲ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಿಗಳ ಗಮನಕ್ಕೆ ಪಾಲನೆಗಾಗಿ ತರತಕ್ಕದ್ದು. ಈ ಸೂಚನೆಗಳನ್ನು ಉಲ್ಲಂಘಿಸುವ ಅಧಿಕಾರಿಗಳು ತಾವೇ ಕರ್ತವ್ಯ ಲೋಪದ ಆರೋಪದ ಮೇಲೆ ಶಿಸ್ತಿನ ಕ್ರಮಕ್ಕೆ ಒಳಪಡಿಸಬೇಕಾಗುತ್ತದೆಯೆಂದು ಈ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ.

5. ದಿನಾಂಕ: 31.5.97ರ ಉಲ್ಲೇಖಿತ ಅಧಿಕೃತ ಜ್ಞಾಪನದಲ್ಲಿ, ಮೇಲಿನ ಕಂಡಿಕೆ 3 ಮತ್ತು 4 ರಲ್ಲಿ ನಮೂದಿಸಿದ ಬದಲಾವಣೆಗಳನ್ನು ಹೊರತುಪಡಿಸಿ, ಇನ್ಯಾವುದೇ ಬದಲಾವಣೆಗಳನ್ನು ಈ ಮೂಲಕ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದೂ ಸಹ ತಿಳಿಸಿದೆ.

Sd/-

ಬಿ. ರಾಜು ಪ್ರೇಮ ಕುಮಾರ್
ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿ,
ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಇಲಾಖೆ.”

The aforesaid official memoranda is again reiterated by another official memorandum issued on 09.11.2020. In terms of the afore-extracted official memoranda, enquiry proceedings against a delinquent employee is required to be completed within nine months from its initiation i.e., issuance of charge sheet.

16. Though the said official memoranda has been in existence, it is seldom followed by the State or its instrumentalities, most conspicuously seldom in the case at hand. Therefore, it has become imperative to issue a direction to the State and its instrumentalities to adhere to the timeline stipulated in the aforesaid official memoranda in its letter and spirit and not place the same in cold storage.

Therefore, the State Government and all its instrumentalities shall adhere to the timeline stipulated in the aforesaid memoranda including departmental enquiries that are entrusted to the Lokayukta by the Government in terms of Rule 14-A of the KCS(CCA) Rules. Any deviation from the timeline stipulated can only be for reasons to be recorded in writing, failing which, there would be mushrooming of cases of the nature of the one that is at hand.

17. The petitioner retired on attaining the age of superannuation on 31.01.2012, on the ground that disciplinary proceedings are pending no terminal benefits are paid for nine long years for no fault of the petitioner and now under the guise of conduct of a denovo enquiry, the payment of any terminal benefit is further deferred driving a retired employee to

insurmountable hardship and mental agony as he is denied any benefit after his retirement. It is a fit case where the second respondent has to be mulcted for dealing with its employee in the manner narrated hereinabove. For the aforesaid reasons, the following:

ORDER

- (i) The writ petition is allowed with costs of Rs.25,000/- to be paid to the petitioner.
- (ii) The order dated 27.06.2018 passed by respondent No.2 is quashed.
- (iii) All further proceedings taken up pursuant to the order directing *denovo* enquiry dated 27.06.2018 are quashed.
- (iv) Sequentially, the petitioner is held entitled to all the benefits that would flow from quashing of the order.
- (v) Respondent No.2 is directed to release all terminal benefits to the petitioner on his

retirement, which are yet to be settled, within fifteen days from the date of receipt of copy of this order, failing which, the petitioner would be entitled to interest @ 6% from the date it fell due till the date of its payment.

- (vi) The petitioner shall also be entitled to notional promotion, if any, withheld on account of pendency of the proceedings.
- (vii) Copy of this order shall be sent to the Secretary, Department of Personnel and Administrative Reforms.

**Sd/-
JUDGE**

SJK