
(1965) 04 KAR CK 0005
In the Karnataka High Court
Case No : Writ Petition No. 259 of 1963

Venkoba Rao (N.)

APPELLANT

Vs

State of Mysore and Others

RESPONDENT

Date of Decision : 14-04-1965

Acts Referred:

Constitution of India, 1950 — Article 226
Mysore Civil Services Rules, 1958 — Rule 100 (1)

Citation : (1965) ILR (Kar) 863 : (1967) 1 LLJ 375 : (1967) 1 LLJ 373 : (1966) 2 MysLJ 78

Hon'ble Judges : K.S. Hegde, J; Honnayya, J

Bench : Division Bench

Judgement

Hegde, J.—In this writ petition under Art. 226 of the Constitution of India, the petitioner challenges the legality of the order passed by respondent 3 in No. Pun. C. 631 of 49, dated 21 January, 1963. The said order reads as follows :

"In view of the fact that the delinquent's (P.C. 522 Venkoba Rao) conduct has been held to be suspicious by the enquiry officer the entire period of suspension from 17 February, 1950 to 23 May, 1960 both days inclusive is treated as 60 days earned leave and 132 days half-pay leave and the rest is treated as leave without allowances."

2. This is clearly an illegal order.

3. All the prosecutions launched against the petitioner have ended in acquittal. In the departmental enquiry also he has succeeded. Though the enquiry officer who was the disciplinary authority thought that there was some suspicion attached to the conduct of the petitioner, he came to the conclusion that he was not guilty on the charges levelled against him.

4. Sub-rule (1) of rule 100 of the Mysore Civil Services Rules of 1958 provides :

"Where on the conclusion of an enquiry against a Government servant placed under suspension, the authority competent to impose any punishment.

(1) makes an order fully exonerating or acquitting him, the period during which he was under suspension pending the enquiry shall be deemed to be the period of duty and the Government servant shall be entitled to full pay and allowance as if he had been placed under suspension."

5. In the instant case, as mentioned earlier, the petitioner had been acquitted. Therefore, his case falls within the aforementioned rule. Hence he is entitled to full pay and allowances during the period of suspension.

6. For the reasons mentioned above, the order impugned is quashed and respondent 1 is directed to pay to the petitioner such pay and allowances as he was entitled to under the aforementioned rule during the entire period of suspension. The petitioner is entitled to his costs from respondent. Advocate's fee Rs. 100.