HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 355 OF 2025

Writ Appeal under clause 15 of the Letters Patent filed against the order Dated 30/12/2024 in writ petition No.25550 of 2021 on the file of the High Court.

Between:

Sri Banoth Karna, S/o. Lokya, Aged about 51 years, Occ- DGM Forestry EC No.0043595 Forestry Department GM Office RG-III Area (Presently at RG-I area), The Singareni Collieries Company Limited SCCL Godavarikhani, Peddapalli District, Telangana State.

...APPELLANT/RESPONDENT IN W.P.No.25550/2021

AND

1. The Singareni Collieries Company Limited SCCL, Rep by its Chairman and Managing Director Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.
2. The Director Personnel Administration And Welfare The Singareni Collieries Company Limited SCCL, Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.
3. The General Manager Personnel, Executive Establishment The Singareni Collieries Company Limited SCCL Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.

...RESPONDENTS/RESPONDENTS

4. A B Harinarayana, S/o Babuji, Aged about 53 years, Occ-DGM Forestry EC No.0044282 Corporate Forestry Department The Singareni Collieries Company Limited SCCL R/o Q No MB122 Writers Basthi Kothagudem Bhadradri Kothagudem District, Telangana State.

...RESPONDENT No.4/WRIT PETITIONER

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IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the orders dated-30/12/2024 in WP No.25550 of 2021.

Counsel for the Appellant: SRI G.VIDYASAGAR, Sr. COUNSEL, REP. FOR SRI SAI PRASEN GUNDAVARAM

Counsel for the Respondent No.1 to 3: SRI P.SRI HARSHA REDDY, SC FOR SCCL

Counsel for the Respondent No.4: SRI K.THIRUMALA RAO

The Court delivered the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL No.355 of 2025

JUDGMENT:

Heard Sri G. Vidyasagar, learned Senior Counsel representing Sri Sai Prasen Gundavaram, learned counsel for the appellant, Sri P. Sri Harsha Reddy, learned Standing Counsel for Singareni Collieries Company Limited appearing for respondent Nos.1 to 3, Sri K.Thirumala Rao, learned counsel for respondent No.4 and perused the record.

2. This Writ Appeal is directed against the dated 30.12.2024 passed by the learned Single Judge in W.P.Nos.25550 of 2021. The said Writ Petition was disposed of along with W.P.No.23141 of 2021 whereby the learned Single Judge

i) allowed W.P.No.25550 of 2021 filed by respondent No.4 herein and has set aside the orders granting notional promotions to the appellant in regard to the post of Manager (Forestry) Grade-VI w.e.f. 01.04.2017 and also in regard to the post of Deputy General Manager, Grade-VII w.e.f. 01.05.2021. The appellant herein, who is respondent No.4 in W.P.No.25550 of 2021 challenges the

directions issued by the learned Single Judge particularly in paragraph Nos.12 and 13 of the said order dated 30.12.2024 which directs the official respondents to modify the punishment imposed upon the appellant and to reconsider the case of the appellant for promotion after the modification of the punishment order and

ii) dismissed W.P.No.23141 of 2021 filed by the appellant herein *inter alia* challenging the action of respondent No.1-Singareni Collieries Company Limited, in not considering and disposing the representation dated 04.08.2021 made by the appellant herein for promotion to the post of Deputy General Manager (Forestry) in E-VII Grade w.e.f. 01.04.2020 and consequently to direct respondent No.1-Company to consider the case of the appellant for promotion to the post of Deputy General Manager (Forestry) in E-VII Grade w.e.f. 01.04.2020.

3. The case of the appellant herein/respondent No.4 in Writ Petition No.25550 of 2021 was that he was appointed on 16.06.2001 as Junior Manager in E-I Grade, he was promoted to E-II Grade on 07.10.2004 as Forest Officer, he was further promoted to E-III Grade on 01.11.2007 as Senior Forest Officer, E-IV Grade on 01.04.2011 and E-V on 01.04.2014 as Deputy

Manager and he became eligible to Manager (Forestry) E-VI Grade w.e.f. 01.04.2017, but due to pending disciplinary proceedings, his promotion was kept in a sealed cover.

4. The disciplinary proceedings initiated against the appellant herein concluded with a 'warning letter' dated 29.07.2019. Subsequently, the sealed cover was opened and the appellant herein was promoted to the post of Manager (Forestry) in E-VI Grade notionally w.e.f. 27.11.2018 by office order on 06.08.2019 and allowing the monetary benefits from 06.08.2019.

5. Aggrieved by the action of the respondent Company in not promoting the appellant herein w.e.f. the date of his eligibility i.e., 01.04.2017, the appellant approached this Court by filing W.P.No.20233 of 2020. However, during the pendency of W.P.No.20233 of 2020, the appellant was issued with office order dated 08.12.2020 modifying the office order dated 06.08.2019 and informing the appellant that the date of promotion in the pay scale of Rs.90,000-Rs.2,40,000 (E-VI Grade) may be read as 01.04.2017 (Notional) instead of 27.11.2018. The appellant was promoted as Deputy General Manager (Forestry) in E-VII Grade by office order dated

23.07.2021 w.e.f. 01.05.2021 allowing monetary benefit w.e.f. 14.07.2021.

6. Aggrieved by the promotion of the appellant herein to Grade-VI w.e.f. 01.04.2017 (by office order) and promoting the appellant to Grade-VII w.e.f. 01.05.2021 (by office order dated), respondent No.4 herein filed W.P.No.25550 of 2021 challenging the notional promotion of the appellant w.e.f. 01.04.2017.

7. The appellant made a representation dated 04.08.2021 to the respondents contending that he became eligible for promotion to E-VII Grade w.e.f. 01.04.2020 by restoration of notional seniority from 01.04.2017 and requested for consideration for promotion w.e.f. 01.04.2020. The appellant filed W.P.No.23141 of 2021 challenging the action of the respondents in not considering his representation dated 04.08.2021 for promotion to the post of DGM (Forestry) in E-VII Grade w.e.f. 01.04.2020.

8. The learned Single Judge as noted above by common order dated 30.12.2024 dismissed W.P.No.23141 of 2021 filed by the appellant and allowed W.P.No.25550 of 2021 filed by respondent No.4 wherein it was held that the warning letter dated 29.07.2019 issued to the appellant herein was not in accordance with Rule 14.11 of Executive Promotion Rules,

which mandate that atleast a penalty of 'censure' for partially proved charges. Further, the learned Single Judge also has set aside the appellant's promotion order and directed the respondents to modify the punishment awarded to the appellant to 'censure' based on the Executive Promotion Rules and thereafter directed to consider the appellant's promotion.

Submissions of the appellant:

9. The learned Senior Counsel for the appellant contends that:

i) the learned Single Judge erred in applying Executive Promotion Rules to disciplinary proceedings which are governed by SCCL Executive Conduct, Discipline and Appeal Rules, 2021 (for short, 'CD&A Rules').

ii) though a warning is not a prescribed penalty under the CD&A Rules, it is an administrative action and the Disciplinary Authority has the discretion to issue a warning without invoking formal penalties.

iii) respondent No.4, being a third party, has no *locus standi* to challenge the penalty awarded to the appellant.

iv) the direction of the learned Single Judge to modify the punishment and to reconsider the promotion after

modification of the punishment effectively directs the respondent-Company to impose a formal penalty, however the Disciplinary Authority has chosen to caution the appellant by issuing a 'warning', which is beyond the scope of judicial review under Article 226 of the Constitution of India.

The learned Senior Counsel for the appellant contends that the penalties are governed by the SCCL Executive Conduct, Discipline and Appeal Rules which operate in different areas and the learned Single Judge erred in directing the modification of the punishment based on the Executive Promotion Rules.

Learned Senior Counsel also contends that the learned Single Judge exceeded the bounds of judicial review under Article 226 of the Constitution of India and has further contended that the power to impose punishment lies with the disciplinary authority.

Learned Senior Counsel also found fault with the finding of the learned Single Judge that respondent No.4 herein being an affected party should ought to have been given a notice before the modification of appellant's promotion order and also contended that the same is without any legal basis. Further, the learned Senior Counsel for the appellant asserted that once

a 'sealed cover' promotion decision is finalised after disciplinary proceedings, the benefit of the promotion can be extended even without providing notice to other employees.

Submissions on behalf of respondent Nos.1 to 3:

10. The learned counsel appearing on behalf of the respondent-Company contended that:

i) as per the recommendations of the Departmental Promotion Committee (for short, 'DPC') the appellant therein has been promoted to Manager (Forestry) in E-VI Grade w.e.f. 01.04.2017.

ii) the appellant was issued a warning letter dated 31.07.2019 and that the imposition of penalties to a delinquent is in the discretion of the Disciplinary Authority of the respondent-Company.

iii) after the completion of the disciplinary proceedings, the Departmental Promotion Committee was held on 12.12.2016 by following sealed cover procedure as recommended for the promotion of the appellant herein to E-VI Grade. Subsequently, on the completion of three years in E-VI Grade, the appellant was promoted to E-VII Grade w.e.f. 01.05.2021.

iv) there was no deviation of any Rule by the respondent Company and the Departmental Promotion Committee guidelines were strictly followed.

v) right from the date of appointment, respondent No.4 herein was junior to the appellant.

vi) the allegation of respondent No.4 that the respondent Company unduly favoured the appellant is baseless and incorrect.

Submissions of respondent No.4:

11. The learned counsel for respondent No.4 supported the order of the learned Single Judge and contended that

i) the disciplinary authority is bound by the Rules governing disciplinary matters and cannot impose the penalty of 'warning' which is not prescribed by the CD&A Rules.

ii) that in the warning letter dated 29.07.2019 at para Nos.4 and 5 held as follows:

"04. The Enquiry Officer has submitted his report giving findings that the articles of charges levelled against you under Clause No.5(9) read with 4.1 of CD&A Rules of the Company are proved.

05. Though the misconduct committed by you, in fact, warrants imposition of penalty under CD&A Rules, after careful consideration the Enquiry Proceeding, Enquiry Report, your representation against enquiry report and evidence on record, a lenient view has been taken for this time and you are hereby WARNED to be meticulous at your duties in future."

And as per Note 3 (iii) which reads:

"(iii) Caution/Warning/Recordable Warning issued to the employee without issuance of any Chargesheet/Memorandum. However, in the past, if caution/warning/recordable warning is issued as a result of proven/established charges, it shall be treated as equivalent to "Censure"".

The warning being on account of 'established charges' should be treated as equivalent to 'censure'.

iii) That Rule 14.0 of the Executive Promotion Rules (for short, 'EPR') deals with Procedure in respect of Executives facing disciplinary proceedings and Rule 14.4 of the EPR specifically provides that the delinquent who must be 'completely exonerated' for the sealed cover procedure to be given effect. However, in the present case, the disciplinary authority took a lenient view and

issued a warning even though the charges were held to be proved by the Enquiry Officer, which itself disentitle the appellant from coming into the zone of consideration for promotion.

12. Now the points that arise for consideration in this writ appeal are:

1. Whether the Disciplinary Authority can issue a 'warning' though not enlisted in the list of prescribed penalties?

2. Which of the Rules would apply to matters of departmental proceedings in the event of these being two sets of Rules in existence like in the present case, as:

   a) EPR
   b) CD&A

3. What would be the nature of warning and whether it would constitute a punishment?

4. Whether 'warning' in the facts of the case would amount to 'exoneration' of the charges and can it remove the impediment for promotion of the appellant to Grade-VI and Grade-VII?

5. Whether respondent No.4 herein has the *locus standi* to challenge the punishment awarded to the appellant?

6. What is the scope of judicial review in disciplinary matters and whether the Writ Court could direct the modification/alteration of the punishment imposed on the appellant?

Point Nos.1 and 3:

13. It is pertinent to note that 'warning' is not considered as formal penalty under the Classification, Conduct and Appeal Rules and is distinct from 'censure' which is a formal punishment. Further, the warnings are issued as an administrative device, for cautioning the employee for toning up efficiency in the case of minor lapses.

14. On perusal of the CD&A Rule No.28.1 which enumerates specific penalties, wherein a 'warning' is not listed among them, as a warning issued is an administrative measure and not a formal penalty and the disciplinary authority has the discretion to issue a warning, based on the facts and circumstances of a given case.

Point No.2:

15. It is to be noted that the CD&A and EPR Rules operate in distinct domains wherein, the CD&A governs disciplinary proceedings and penalties while EPR Rules regulates promotions. Rule 14.11 of EPR Rules which prescribes a minimum penalty of 'censure' for partially proved charges, is intended to guide promotion committees and not to override the powers of disciplinary authority under CD&A.

16. Further, under the Service Law, there is a distinction between promotion and disciplinary proceedings. While disciplinary proceedings can affect an employee's promotion, the Rules governing each process are distinct.

Point No.4:

17. In respect of the question that whether 'warning' would amount to exoneration of charges, it is to be noted that as per P.Ramanatha Aiyar "The Law Lexicon", the word 'exoneration' is defined as *'the removal of a burden, charge, responsibility, or duty'*. In the present case, the disciplinary authority in exercise of its administrative action has chosen to issue a warning. The disciplinary authority has the exclusive discretion to amend, including the penalty not prescribed under enlisted penalties.

Such a conscious and deliberate act on the account of the disciplinary authority can only be treated as exoneration of the appellant herein from the charge.

18. Thus, the appellant having been exonerated by passing comment about the charges being proved with the enquiry report assume no significance and become redundant.

Point No.5:

19. It is also pertinent to note that a third party employee i.e. respondent No.4 herein has no right to challenge the penalty imposed unless it directly violates his legal or a Constitutional Right.

Point No.6:

20. The scope of judicial review in matters concerning disciplinary actions is limited as it restricts the process and adherence of the applicable law including Rules and the compliance of principles of natural justice. In the present case, the Writ Court erred in directing an employer to impose a specific penalty or enhance the punishment at the request of a third party. The direction to modify punishment and to reconsider promotion (based upon such modified punishment) encroaches upon the domain of the disciplinary authority.

Therefore, the Writ Court cannot substitute its view for that of employee in matters of disciplinary proceedings.

21. In view of our findings above, it is observed that the learned Single Judge erred in directing the respondent Company and the official respondents to modify the punishment in accordance with Executive Promotion Rules and reconsider the case of the appellant for promotion thereafter.

Conclusion:

22. In the light of the above discussion, we are of the opinion that the learned Single Judge erred in applying the Executive Promotion Rules to the disciplinary proceedings and in directing the modification of the punishment imposed on the appellant. The disciplinary authority acted within its powers under the CD&A Rules and the promotion granted to the appellant herein was in accordance with the sealed cover procedure.

23. Accordingly, the Writ Appeal is allowed setting aside the order dated 30.12.2024 in W.P.No.25550 of 2021. The promotion orders dated 08.12.2020 and 23.07.2021 in favour of the appellant are restored. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman and Managing Director, Singareni Collieries Company Limited SCCL, Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.
2. The Director Personnel Administration and Welfare The Singareni Collieries Company Limited SCCL, Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.
3. The General Manager Personnel, Executive Establishment, The Singareni Collieries Company Limited SCCL Kothagudem Collieries Bhadradri Kothagudem District-507 101, Telangana State.
4. The Section Officer, Writ Posting Section, High Court for the State of Telangana at Hyderabad.
5. The Section Officer, Writ Service Section, High Court for the State of Telangana at Hyderabad.
6. One CC to SRI SAI PRASEN GUNDAVARAM, Advocate [OPUC]
7. One CC to SRI K.THIRUMALA RAO, Advocate [OPUC]
8. One CC to SRI P.SRI HARSHA REDDY, SC FOR SCCL [OPUC]
9. Two CD Copies

BSR

HIGH COURT

DATED:15/09/2025



JUDGMENT

WA.No.355 of 2025

ALLOWING THE WRIT APPEAL,

WITHOUT COSTS

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22/9/25