

APHC010086012023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3208]

THURSDAY, THE TWELFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

WRIT PETITION NO: 4361/2023

Between:

A Seshagiri Rao

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. K SRINIVASA PRASAD

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 4368/2023

Between:

Yemineni Gopiraju

...PETITIONER

AND

The State Of Andhra Pradesh and Others...RESPONDENT(S)

Counsel for the Petitioner:

1. K SRINIVASA PRASAD

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

COMMON ORDER:

1. Since the issue involved in both the writ petitions is one and the same, both the writ petitions are disposed of by way of this common order.
2. Both the writ petitions are filed challenging the impugned proceedings C.No.12/A5/OE/PR/2018, D.O.No.584/2022, dated 05.09.2022, issued by the 4th respondent awarding the punishment of removal from service and the consequential orders issued by the 3rd respondent dated 14.12.2022 rejecting the appeal petition as being illegal, arbitrary, unjust, violative of Articles 14, 16 and 21 of the Constitution of India.
3. The petitioners in both the writ petitions were appointed as Police Constables on 18.01.2021 vide a common proceedings. On 28.11.2014, both the petitioners were placed under suspension and subsequently charges were framed against the petitioners in both the matters and a Crime in C.C.No.50 of 2015 under Section 384 read with 34 IPC in Crime No.862 of 2014 of Nallapadu P.S was registered on the file of the Judicial Magistrate of I Class, Special Mobile Court, Guntur. While pending the criminal case, the respondents have also initiated disciplinary proceedings against the petitioners and issued charge memo on 31.12.2015. The Additional Superintendent of Police, Guntur Urban was

appointed as Enquiry Officer and he has conducted the enquiry and submitted the report on 30.01.2016 with the following finding:

“On the basis of the oral and documentary evidence adduced in the case before me and the acquittal of main case in Cr.No.862/2014 u/s 384 IPC r/w IPC by the Hon’ble Judicial Magistrate of First Class, Special Mobile Court, Guntur vide C.C.No.50 of 2015, dated 15.06.2015 as A1 to A3 are found not guilty for the offence punishable u/s 384 r/w 34 IPC and they are acquitted as per the provisions of Section 248(1) of Cr.P.C in view of the reasons given above, I hold the following charges against the charged officer as ‘not proved’.

4. Even before the Judicial Magistrate of the First Class, Special Mobile Court, Guntur the petitioners were acquitted in C.C.No.50 of 2015 vide judgment dated 15.07.2015 with following observations:

“Therefore, for all the above reasons, court finds that the prosecution has failed to bring home the guilt of the accused beyond reasonable doubt for the offence under Section 384 r/w 34 IPC.”

5. Despite the above findings in the enquiry report the disciplinary authority has passed the orders on 05.09.2022 disagreeing with the findings of the enquiry officer and removed the petitioners from their service and the suspension period from 20.11.2014 to 19.06.2015 treating as not on duty.

6. Aggrieved by the said order, the petitioners preferred an appeal before the 3rd respondent and the same has been considered and rejected vide orders dated 14.12.2022. Aggrieved by the same, the present writ petitions are filed.

7. The contention of the learned counsel for the petitioners in both the writ petitions is that once the Criminal court has considered and acquitted the petitioners, the respondents ought not to have proceeded with the disciplinary proceedings. The respondent authorities should have finalized the disciplinary proceedings while considering the findings of the criminal courts as the charges are one and the same and the witnesses are also one and the same. The enquiry authority has also given findings stating that the charges have not proved but the disciplinary authority has not while passing the removal order disagreeing with the findings of the enquiry officer has not given any valid reasons except stating that the recovery of Rs.30,000/- and also on the confession made by the petitioner at the time of arrest, which is contrary to the observations made by the Division Bench of this Court in W.P.No.16104 of 2013 as well as the W.P.No.24286 of 2005 vide orders dated 10.06.2013 and 01.12.2014 respectively.

8. The learned counsel for the petitioners has mainly relied on the observations of the Division Bench of this Court in W.P.No.16104 of 2013, which reads as under:

“Wherein the Court clearly stated that if the charges are framed in criminal cases and the disciplinary proceedings are one and the same and the evidence recorded is also one and the same, in such event it has been held by the Hon’ble Apex Court that no different view can be taken by the disciplinary authority other than the view taken in a criminal proceeding and witnesses who are examined and the witnesses relied upon by the disciplinary authority were also examined in criminal case are one and the same,

the acquittal recorded by the criminal court has to be followed in disciplinary proceedings.”

9. Further, the other Division Bench of this Court in W.P.No.24286 of 2005 vide order dated 01.12.2014 has followed the observations of the Hon'ble Apex Court in **G.M. Tank vs. State of Gujarat**¹ and **M. Paul Anthony v. Bharat Gold Mines Ltd**².

10. Therefore, as seen from the above judgments, it is clear that it is not an acquittal giving benefit of doubt, but only due to total lack of evidence adduced by the prosecution. The judgment ought to have taken into consideration by the disciplinary authority and further the evidence in the departmental as well as criminal proceedings were same without therebeing any iota of difference when there is acquittal of the employee during the pendency of the departmental proceedings, the same requires to be taken note of the disciplinary authority while deciding the disciplinary proceedings.

11. In the above said judgments, the Division Bench has categorically held that the criminal cases are ended acquittal, the disciplinary authority has taken into consideration of the findings of the criminal cases while concluding the disciplinary proceedings. In both the cases, the disciplinary authority even after acquittal of the petitioner in criminal cases have concluded and removed the employees without following the observations made by the Hon'ble Apex Court in

¹ (2006) 5 SCC 446

² (1999) 3 SCC 679

the above said judgments and as well as in orders of the Division Bench of this Court. In the instant case also the criminal case is ended with an acquittal and findings of the enquiry officer is also that the charges were not proved. But surprisingly the disciplinary authority without considering and without giving any reasons for disagreeing with the findings of the enquiry officer and also findings in the criminal case, the respondents have removed the petitioners from service which is totally contrary to the observations of the Hon'ble Apex Court as well as Division Bench of this Court. Though the petitioners have filed appeals but the respondents have also not considered the appeals in perspective manner by taking the observations of the Hon'ble Apex Court into consideration. Hence, prayed to set aside the impugned order remanding the matter to the 3rd respondent to reconsider the appeal once again in terms of the judgments passed by the Hon'ble Apex Court as well as by the Division Bench of this Court, by providing an opportunity of hearing to the petitioners once again.

12. Having considered the submissions and also as per the observations of the Hon'ble Apex Court and the Division Bench of this Court, both the writ petitions are disposed of directing the respondent-appellate authorities to dispose of the appeals filed by the petitioners in accordance with law within a period of six months after giving due opportunity of hearing to the petitioners from the date of receipt of a copy of this order. Till then the impugned proceedings in both the matters shall stand suspended. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

D. RAMESH,J

Date:12.02.2026

Gk.

THE HON'BLE SRI JUSTICE D. RAMESH

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WRIT PETITION Nos.4361 & 4368 OF 2023

Date:12.02.2026

Gk