

GAHC010184632025



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/401/2025

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE ADDL CHIEF SECRETARY TO THE GOVT. OF
ASSAM, PERSONNEL DEPARTMENT PERSONNEL A ASSAM SECRETARIAT,
DISPUR, GUWAHATI-6.

2: THE SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL (A) DEPARTMENT
ASSAM SECRETARIAT
DISPUR, GUWAHATI-6

VERSUS

SRI BHUPESH CH DAS AND ANR.
S/O SRI GIRISH CH. DAS, R/O HOUSE NO. 2, NAVADOY NAGAR PATH,
GHORAMARA, GUWAHATI 781028, DIST KAMRUP M, ASSAM

2: THE SECRETARY TO THE GOVT. OF ASSAM
TRIBAL AFFAIRS DEPTT.
DISPUR, GUWAHATI

For the appellant/petitioner(s): Mr. D. Nath, Sr. GA, Assam

For the Respondent(s) : Mr. K. N. Choudhury, Sr. Advocate
Mr. D. J. Das, Advocate

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

19.01.2026

(Ashutosh Kumar, CJ)

We have heard Mr. D. Nath, learned Senior Government Advocate, Assam, for the appellant/State and Mr. K. N. Choudhury, learned Senior Advocate for the respondent No. 1/writ petitioner.

2. This writ appeal has been preferred by the appellant/State challenging the judgment dated 29.10.2024, passed by a learned Single Judge of this Court in WP(C) 1053/2024.

3. The respondent No. 1, while serving as the Chief Executive Officer, Darrang Zila Parishad, was arrested and subjected to a criminal trial under various provisions of the Prevention of Corruption Act, 1988 (hereinafter referred to as "Act of 1988"). He was also proceeded against departmentally, wherein the Statements of allegation were found to be exactly similar to the charges framed in the criminal case.

4. The criminal case ended in acquittal of the respondent No. 1 with the trial Court observing that the prosecution had failed to establish that the accused (respondent No. 1) had demanded illegal gratification from one Saidur Rahman with a promise that he would allot the Besimari Weekly and Daily Bazar to Saidur Rahman. It was also observed that the allegation of acceptance of illegal gratification by the respondent No. 1 was also not proved beyond reasonable doubt.

5. Under such circumstances, the trial Court found it safe to hold that the prosecution was unable to establish the charge framed against the respondent No. 1 under Sections 7/13(1)(d) and 7/13(2) of the Act of 1988 beyond all reasonable doubts and that the respondent No. 1 deserved the benefit of doubt.

6. Close to the heels of this judgment of the trial Court, the respondent No. 1 came up before this Court seeking discontinuance of the departmental proceeding initiated against him in the face of such an acquittal on merits, though the phrase "benefit of doubts" was used at several places of the trial Court judgment.

7. The learned Single Judge, after analyzing the Statement of allegation in the departmental proceeding and the charge-sheet in the criminal case, recorded a finding that there was not an iota of difference between the two and held that in such case, continuance of the departmental proceeding against the employee would be unfair and unreasonable too.

8. Relying heavily on the judgment of the Supreme Court in **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. and Another, (1999) 3 SCC 679**, and **G.M. Tank vs. State of Gujarat and Others, (2006) 5 SCC 446**, the learned Single Judge recorded his finding in paragraph 33 of the judgment impugned, which we are extracting below for the sake of completeness:

"33. As noted above, in the present case, the departmental proceeding and the criminal case are based on identical and similar set of facts and the charge in the departmental case and the charge before the Criminal Court against the petitioner are also one and the same. The listed witnesses in the departmental case were examined in the criminal case and the Criminal Court upon examination of such witnesses has concluded that the prosecution has failed to establish that the petitioner/accused had demanded illegal gratification from the informant. That being so, in the considered opinion of this Court, further continuation of the departmental proceeding against the petitioner is wholly unfair and unjustified."

9. After having said so, the learned Single Judge proceeded to direct the enquiring authority to conclude the departmental proceeding

pending against the respondent No. 1 in accordance with law, keeping in mind the observations made in the judgment, within a period of one month from the date of receipt of a certified copy of the judgment passed by the Court.

10. An attempt by the State/appellant to have the time limit extended was refused vide order dated 09.01.2025, but one month's further time was granted to the State/appellant to conclude the departmental proceeding.

Hence, this appeal.

11. We are at a loss to understand as to why the matter was relegated to the enquiring authority, when the learned Single Judge, on the analysis and comparison of the Statement of allegation in the departmental proceeding and the Charge-sheet in the criminal case, found that they were one and the same and that continuance of the departmental proceeding would be unfair.

12. The curtains ought to have been drawn then. Nonetheless, aligning with the observations made by the learned Single Judge, as noted above, the enquiring authority should have concluded the departmental proceeding within the stipulated time, which, somehow or the other, has yet not been concluded.

13. While challenging the afore-noted judgment, Mr. Nath has made two-fold arguments, namely, (i) that the learned Single Judge did not correctly appreciate the fact that the acquittal of the respondent No. 1 was not earned on merits, but on benefit of doubt, and (ii) mere

comparison of the Statement of allegation in the departmental proceeding and the Charge-sheet in the criminal case was not sufficient to come to a conclusion that there was not an iota of difference between the two, thus triggering application of **G.M. Tank** (supra).

14. Mr. Nath has further submitted that an appeal against the judgment of acquittal has also been filed and, in such an event, the learned Single Judge ought not to have given such a short time limit to conclude the departmental proceeding against the respondent No. 1, as granting of such a short period of time to conclude the proceeding actually amounted to discontinuance of the departmental proceeding.

15. Mr. Nath has also taken us to the last part of the judgment of the trial Court, wherein it has been observed that the respondent No. 1 has been given the benefit of doubt.

16. On going through the various paragraphs of the judgment of the trial Court, we are of the view that the acquittal was on merits as the prosecution could not prove an important aspects of the charge, namely, demand and acceptance of the bribe money. That apart, we have found that the learned Single Judge has not only made a comparison between the Statement of allegation in the departmental proceeding and the Charge-sheet in the criminal case, but has also examined the list of witnesses and the documents relied upon by the trial Court as also the enquiring authority.

17. Under such circumstances, we do not find any fault with the judgment impugned, when the learned Single Judge has considered

and rejected the proposed distinction between the departmental proceeding and criminal proceeding on the basis of approach and the burden of proof in the two proceedings.

18. That apart, since we have not found any serious vulnerability in the judgment, we do not wish to interfere with the same.

19. For the afore-noted reasons, we dismiss this appeal with the direction to the appellant/State to have the judgment of the learned Single Judge complied with statim.

JUDGE

CHIEF JUSTICE

Comparing Assistant