

IN THE HIGH COURT FOR THE STATE OF TELANGANA

**AT HYDERABAD
(Special Original Jurisdiction)**

**THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 24316 OF 2022

Between:

K. Sudhakar Reddy, S/o K. Chandra Reddy, Aged about 36 years, Occ.
Police Constable, R/o 13-2-267/1/2, Shivilal Nagar, Rahimpura, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary Home (Services - II) Department, Secretariat Buildings, Hyderabad.
2. The Director-General of Police, Telangana State at Hyderabad.
3. The Commissioner of Police, Hyderabad City, at Basheer Bagh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order, direction especially one in the nature of Writ of Certiorari calling for the order of punishment declaring the order of punishment imposed vide proceedings DO.No.7717 No.L and O/B6/1130/2015-19 dated 05.09.2019 by the 3rd respondent, as confirmed vide proceedings in RC No.601/T2/2019 dt.10-06-2020 by the 2nd respondent and further confirmed vide Memo No.9187/Ser.II/A1/2020 dt.07-01-2021 by the 1st respondent as illegal, arbitrary, violative of Article 14 and 16 of

constitution of India and quash the same and consequently direct the respondents to grant service and monetary benefits to the petitioner.

Counsel for the Petitioner: SRI. CH RAVINDER

Counsel for the Respondents: SPECIAL GP FOR HOME

The Court made the following: ORDER

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

W.P. No. 24316 OF 2022

ORDER:

Heard Sri Ch. Ravinder, learned counsel appearing on behalf of the petitioner and learned Special Government Pleader appearing on behalf of Respondents.

2. PRAYER :

The Petitioner approached this Court seeking the prayer as under :

"To issue an appropriate Writ, Order or Direction, especially one in the nature of Writ of Certiorari calling for the order of punishment declaring the order of punishment imposed vide proceedings DO.No7717 No.L&O/B6/1130/2015-19 dated 05.09.2019 by the 3rd respondent, as confirmed vide proceedings in RC No.601/T2/2019 dt.10.06.2020 by the 2nd respondent and further confirmed vide Memo No.9187/Ser.II/A1/2020 dt.07.01.2021 by the 1st respondent as illegal, arbitrary, violative of Article 14 and 16 of constitution of India and quash the same and consequently direct the respondents to grant service and

monitory benefits to the petitioner and pass such other order..."

3. The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition in brief are as under :

(i) The petitioner was appointed as a Police Constable in 2009 and posted at Kulsumpura Police Station. The petitioner was placed under suspension from 02.06.2015 to 02.09.2016. During this period, a false complaint in Crime No.84/2015 was lodged by one Mandeep Singh Maan, against the petitioner herein implicating the petitioner falsely under Section 384, 506 and 149 IPC. This led to C.C. No.835/2015, in which the petitioner was honourably acquitted on 01.03.2018, by the Court of XVIII Addl.Chief Metropolitan Magistrate at Nampally, Hyderabad holding that no charge against the petitioner was proved and no credible evidence was produced.

(ii) It is further the case of the petitioner that nevertheless, the departmental enquiry continued, and the Enquiry Officer wrongly held the charge as "proved", against the petitioner. On 05.09.2019, the 3rd Respondent imposed the punishment of postponement of increment for one year with effect on future increments and pension, and the suspension

period was treated as "Not on Duty." The appellate and revisional authorities, by orders dated 10.06.2020 and 07.01.2021 respectively, mechanically confirmed the punishment without reasons. Aggrieved by the order impugned of the 3rd respondent, dated 05.09.2019, and also the consequential orders of the Appellate Authority, dated 10.06.2020 and the Revisional Authority, dated 07.01.2021 the petitioner filed the present writ petition.

4. PERUSED THE RECORD :

(A) The Order impugned dated 05.09.2019 passed by the 3rd respondent vide D.O.No.7717 No.L&O/B6/1130/2015-19 against the petitioner herein, is extracted hereunder :

"Sub:- HYDERABAD CITY POLICE - Departmental Inquiry against Sri K. Sudhakar, PC 5177 of Kulsumpura PS (f) Begum Bazar PS, Hyderabad - Inquiry completed - Minutes of the IA supplied to the Charged officer - Further representation received - Final Orders - Issued.

Read:- 1. This office D.O.No.3838, dt: 02-06-2015 (Suspension).

2. This office memo of even No. dt: 09-06-2016 (Article of charge).

3. His written statement of defence, dt: 22-06-2016.

4. This office proceedings of even No. dt: 23-07-2016 (I.A. appt.).

5. This office D.O.No.8871, dt: 01-09-2016 (release from suspension).

6. Minutes Lr. No.370/OE/ING/2018, dt. 13-08-2018 of Addl.Inspector of Police, Narayanguda PS, Hyderabad.
7. This office Memo of even No. dt. 25-08-2018 (supply of minutes).
8. His further representation dt. 14-09-2018.

ORDER:

Sri K. Sudhakar, PC 5177 of Kulsumpura PS (f) Begum Bazar PS, Hyderabad was placed under suspension vide proceedings 1st read above for exhibiting gross misconduct, negligence of duty and irresponsible attitude, involved himself in a criminal case by extorting an amount of Rs. 1000/- and threatened Sri Vikas Singh Maan, as such a case in Cr.No.84/2015 U/s 384, 506 IPC was registered against him at Begum Bazar PS.

2. Subsequently an Article of Charge as per Rule 20 of TCS (CC&A) Rules, 1991 was issued to the charged officer, calling for his written statement of defence vide this office memo 2nd read above on charges that on 19-05-2015 at 17.35 hrs, Sri Mandeep Singh Maan S/o Satveer Singh Maan, age 30 years r/o Begum Bazar, Hyderabad lodge a complaint wherein he alleged that Sri K. Sudhakar PC of Begum Bazar regularly coming to his office and threatening him to pay some amount, otherwise he will book criminal case against him. In this regard, he already met with senior officers and submitted complaint against the PC not to harass him. But surprisingly on 19-5-2015 at about 3.15 PM Sri K Sudhakar went to his shop and threatened his brother Sri Vikas Maan for an amount of Rs. 1000/- and when he expressed his inability to pay, the PC warned and took away an amount of Rs. 1000/- from his brother Sri Vikas Maan. On the above complaint a case vide Cr.No.84/2015 U/s 384, 506 IPC was registered at Begum Bazar PS.

3. During the course of investigation while examining the witness it was established that on 05-5-2015 Mr. Sharvan @ Sravan a chair repairer lodged a complaint against Mr. Vikas Maan and his workers for wrongfully restraining him and beating with hands and later on they fled away from the spot. upon which a case in Cr.No.74/2015, U/s 147, 323, 341, 506 r/w 149 IPC was registered against Mr. Vikas Maan and his workers at Begum Bazar PS. Mr Mandeep Singh Maan who is the brother of Vikas Maan was brought to the PS by Sri K Sudhakar, PC 5177 of Begum Bazar PS and enquired about his brother, but he refused to inform and did some galata in the Police Station, upon which a petty case No.178/15 U/s 71 CP Act was booked and let him off. After

that on 19-05-2015 at about 3.15 PM Sri K. Sudhakar, PC 5177 visited the Baba Tent Cloth, met with Mr. Vikas Singh Maan and threatened him to pay Rs.1,000/- otherwise he will send his brother to jail and file charge sheet against him. Thereafter, K. Sudhakar, PC 5177 has forced Sri Vikas Singh Maan to give him an amount of Rs.1,000/- and Mr. Vikas Singh Maan gave the amount to Sri K. Sudhakar, PC under pressure. While the investigation is in progress on 1-7-2015 Sri K. Sudhakar, PC 5177 of Begum Bazar PS surrendered before the Hon'ble II AMSI, Hyderabad. Accordingly the Hon'ble Magistrate sanctioned anticipatory bail to him vide CrI.M.P. No.1892 of 2015, wherein the Hon'ble Court directed him to surrender before the Begum Bazar PS within a week from the date this order by duly executing Rs.10,000/- bond with two sureties. As per the orders of the Hon'ble Court Sri K. Sudhakar, PC 5177 surrendered at Begum Bazar PS on 03.07.2015 duly executing the two FDRs of Rs.10,000/- each. The accused Sri K. Sudhakar PC 5177 of Begum Bazar PS was arrested and released on bail bond. After completion of the investigation, charge sheet has been filed vide CC No.835/2015 on the file of the Hon'ble XVII ACMM Court. Accordingly, he has submitted his written statement of defence on denying the allegations levelled against him vide reference 3rd read above.

4. Vide this office proceedings 4th read above, the Addl. Inspector of Police, Narayanguda PS, Hyderabad was appointed as Inquiring Authority under sub-rule (2) of rule 20 of TCS (CC&A) Rules, 1991 to conduct the Inquiry. Later, Sri K. Sudhakar, PC 5177 was released from suspension vide this office proceedings 5th read above pending further disciplinary action against him.

5. The Inquiring Authority conducted the inquiry by giving reasonable opportunity to the charged officer Sri K. Sudhakar, PC 5177 to defend himself during the inquiry. The Inquiring Authority completed the inquiry and submitted his inquiry findings holding the charge as "Proved" against the charged officers vide reference 6th read above.

6. The inquiry findings of the I.A. were supplied to the charged officer vide this office memo 7th read above calling for his further representation, if any Sri K. Sudhakar, PC 5177 has submitted his explanation denying the allegations levelled against him and requested to drop further action against him vide reference 8th read above.

7. I have gone through the minutes of the O.E of the charged officer Sri K. Sudhakar, PC 5177 of Kulsumpura PS (f) Begum Bazar PS, Hyderabad carefully and minutely. I fully agree with the

findings of the I.A who has held the charge as proved. The contentions made by the charged officer are only an afterthought with an intention to escape from the charges. The charges made out against the charged officer are proved. Under the circumstances mentioned above and also the evidence adduced during the OE, I hold the charge as Proved and award Sri K. Sudhakar, PC 5177 of Kulsumpura PS (f) Begum Bazar PS, Hyderabad the punishment of **"Postponement of increment for one year with effect on future increments and pension"**. The suspension period w.e.f., 02.06.2015 to 02.09.2016 is treated as "Not on Duty"

8. Certified that the procedure as laid down in the TCS (CC&A) Rules 1991, have been followed.

**Anjali Kumar, IPS.,
Commissioner of Police,
Hyderabad city."**

(B) The proceedings of the 2nd respondent herein i.e., The Director of General of Police, Telangana State, Hyderabad rejecting the appeal petition dated 27.09.2019 preferred by the petitioner vide RC No.601/2/2019 dated 10.06.2020, is extracted hereunder :

Sri K.Sudhakar, PC 5177 of Kulsumpura P.S. (f) Begum Bazar P.S. was dealt on a charge under Rule-20 of TSCS (CC&A) Rules, 1991 for the following delinquency:-

Exhibited gross misconduct negligence of duty and irresponsible attitude, involved himself in criminal case by extorting an amount of Rs.1000/- and threatened Sri Vikas Singh Maan, as such a case in Cr.No.84/2015 U/s 384, 506 IPC was registered against him at Begum Bazar PS"

2. The charged officer has submitted his explanation on 22.06.2016 to the Article of Charge

3. The Addl. Inspector of Police, Narayanaguda P.S Hyderabad, was appointed as the Inquiring Authority, who conducted the disciplinary inquiry and held the charge as 'Proved' and submitted his minutes.

4. Duly following the procedure prescribed in the TSCS (CC&A) Rules, 1991, the Commissioner of Police, Hyderabad City awarded the penalty of **Postponement of Increment for one year with effect on future increments and pension** and the suspension period w.e.f., 02.06.2015 to 02.09.2016 was treated as **"Not on duty"** vide D.O.No.7717 (No. L&O/B6/1130/2015-19, dated: 05-09-2019.

5. Aggrieved by the above orders, now he has preferred an appeal petition to the appellate authority i.e. DGP, TS, for consideration.

6. I have gone through the appeal petition of the appellant and the connected PR records carefully and minutely. The main witnesses in the OF deposed against the appellant clearly. It does appear that he did indulge in misconduct.

7. There are no valid grounds to interfere with the penalty imposed or to set it aside. Hence, the appeal petition against the penalty of PPI for one year with effect on future increments and pension" is considered and **rejected**.

(C) The order impugned dated 07.01.2021 vide Memo No.9187/Ser.II/A1/2020 of the 1st respondent rejecting the revision preferred by the petitioner herein, is extracted hereunder :

Sub: Police – Revision petition of Sri K.Sudhakar, PC 5177 of Kulsumpura P.S., (f) Begum Bazar PS, Hyderabad against the punishment of "PPI for one year with effect on future increments and pension" – Examined – Rejected.

Ref: From the Director General of Police, Telangana, Hyderabad Lr.Rc.No.440/T2/2020, dated 06.11.2020.

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The attention of the Director General of Police, Telangana, Hyderabad, is invited to the reference cited. He is informed that the revision petition of Sri K.Sudhakar, PC 5177 of Kulsumpura PS (f) Begum Bazar PS, Hyderabad against the punishment of "PPI for one year with effect on

future increments and pension", is examined and the same is hereby rejected, as per rules.

2. The Director General of Police, Telangana, Hyderabad, is requested to intimate the same to the individual under due acknowledgment.

3. The original records, received through the reference cited, are returned herewith and the same be acknowledged.

RAVI GUPTA
PRINCIPAL SECRETARY TO GOVERNMENT"

(D) The relevant portion of the Judgment obtained in favour of the petitioner dated 01.03.2018 in C.C.No.835 of 2015 on the file of the XVII Additional Metropolitan Magistrate, Nampally, Criminal Courts, Hyderabad, in particular, para Nos. 2, 14, 18 and 19 are extracted hereunder:

"2. The contents of the case are that, on 19.05.2015 at 17:35 hours a complaint is received from complainant: Mandeep Singh Maan wherein he stated that one Police Constable of Begum Bazar PS by name Sudhakar is regularly coming to his office and threatening him to pay amount otherwise he will book criminal cases against him and in that regard he already met Senior officers and submitted a complaint not to harass him but surprisingly on 19.05.2015 at 3.15 PM the said Sudhakar came to his shop and threatened his brother Vikas Maan for money of Rs.1000/- and when he expressed inability to pay, he warned and took away Rs.1000/- from his brother.

14. **On perusal of statement of PW.4 it is seen that his evidence is totally contradictory with the contents of 161 Cr.P.C statement.** It is seen that in the 161 Cr.P.C statement the PW.4 did not speak anything about the accused threatening the PW2 or collecting any money from him and he only stated that the Constable from Begum Bazar came to Baba's tent house and met Vickey and went away.

18. It is seen that even specific abusive words alleged to have uttered by the accused are also specifically mentioned in the

complaint. The prosecution has failed to establish the alleged offence by adducing appropriate evidence and the prosecution has failed to establish the guilt of the accused for the charged offences by examining appropriate witnesses and the Investigating Officer has also failed to answer all the contradictions committed by PWs.1 to 4, as such in these circumstances it cannot be held that the guilt of the accused is established by the prosecution for the offence U/sec.384, 506 IPC, as such the accused is entitled for acquittal U/sec.248 (1) Cr.P.C. The point is held is accordingly.

19. In the result, the accused is found not guilty for the offences U/sec.384, 506 IPC and he is accordingly acquitted U/sec.248(1) Cr.P.C. The bail bonds of the accused shall stand cancelled after expiry of appeal period. The unmarked case property, if any, shall be destroyed after expiry of appeal time.

(E) The relevant portion of the averments made in the counter affidavit filed on behalf of the respondents, is extracted hereunder:

" In this connection, it is to submit that the criminal case in Cr.No.84/2015 U/sec 384, 506, 149 IPC of Begumbazar PS was acquitted in CC No.835/2015 dt:01.03.2018 at the court of XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad.

The contention of the petitioner that though the criminal case was ended in acquittal the respondents had imposed the punishment is incorrect. Though, the petitioner was acquitted in a criminal case, disciplinary action can be taken against the petitioner, as is well settled, for that departmental proceedings do not stand on the same footing as a Criminal prosecution in which the degree of proof required is of a very high order. Strict rules of Evidence Act and standard of proof envisaged therein do not apply to departmental proceedings. The material must be genuine and relevant to the facts in issue. The standard of proof, in departmental enquiries, is not proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable. The probative value of the evidence can be gauged from the facts and circumstances in a given case. The preponderance of probability in the departmental enquiry has been amply proved.

It is to submit that the allegations made by the petitioner are false and far from the truth. The Oral Enquiry was conducted, as per rules giving reasonable opportunity to the petitioner, to defend himself during the Oral Enquiry. There is nothing illegal on the part of the respondents in issuing impugned orders as disciplinary action was taken strictly in accordance with Telangana Civil Services (Classification, Control & Appeal) Rules, 1991. In a criminal case it is punishment for crime, whereas in departmental proceedings it is a penalty for misconduct and about the suitability of the employee to work. Hence, it is clearly established in the O.E. that the petitioner did indulge in misconduct. The preponderance of probability exists. Hence, the Writ Petition is not maintainable and liable to be dismissed."

(F) The Article of Charge framed in the Disciplinary Proceedings is extracted hereunder.

"ARTICLE OF CHARGE AND SUBSTANCE OF IMPUTATION OF NEGLIGENCE OF DUTY, IRRESPONSIBLE BEHAVIOUR AND REPREHENSIBLE CONDUCT:-

"Sri K.Sudhakar, PC 5177 of Kulsumpura Police Station formerly of Begumbazar, Hyderabad while working at Begumbazar Police Station has involved himself in a criminal case by extorting an amount of Rs.1000/- and threatened Sri Vikas Singh Maan, as such a case was registered against him at Begumbazar Police Station. Thus, he exhibited gross misconduct, negligence of duty and irresponsible attitude, which is unbecoming of a member of disciplined force and thereby Sri K.Sudhakar, PC 5177 of Begumbazar Police Station have willfully contravened Rule 3(1), (2) & 3 of APCS (Conduct) Rules, 1964."

5. Learned counsel appearing on behalf of the petitioner mainly puts forth the following submissions:

(i) The order impugned dated 05.09.2019 passed by the Commissioner of Police, Hyderabad City – 3rd Respondent

herein, is illegal, arbitrary and passed without application of mind in a routine casual manner.

(ii) The order impugned dated 05.09.2019 is not supported by any reasons and there is no justification in arriving at the conclusion for imposing the punishment of postponement of Increment for one year with effect on future increments and pension with a clear stipulation that the period of suspension from 02.06.2015 to 02.09.2016 shall be treated as "Not on duty".

(iii) The proceedings of the Director General of Police, Telangana, Hyderabad vide Rc.No.601/72/2019 dated 10.06.2020 in the Appeal Petition dated 27.09.2019 preferred by the petitioner against the orders impugned dated 05.09.2019 issued by the 3rd respondent herein is an order passed without independent application of mind rejecting the Appeal Petition preferred by the petitioner without assigning any single reason except stating that there are no valid grounds to interfere with the penalty imposed against the petitioner.

(iv) The order impugned dated 07.01.2021 of the Revisional Authority i.e., 1st respondent herein vide Memo



No.9187/Ser.II/A1/2020 rejecting the revision petition preferred by the petitioner against the punishment imposed vide impugned orders dated 05.09.2019 of the 3rd respondent herein is arbitrary and unsustainable, since the same is also bereft of reasons.

(v) The impugned order had been passed without assigning any reasons without application of mind independently except stating that the revision petition preferred by the petitioner had been examined and the same is rejected as per rules.

(vi) The 3rd respondent herein had failed to take into consideration the clear judgment, on merits, passed in favour of the petitioner in C.C.No.835 of 2015 dated 01.03.2018 on the file of the XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad.

(vii) The 3rd respondent herein had failed to take into consideration the fact that the witnesses who were examined in the criminal case are the witnesses in the departmental enquiry as well.

(viii) The order impugned passed by the 3rd respondent ignored the clear finding of the competent criminal Court holding that the charge is not proved against the petitioner. The specific finding recorded in Para 19 of the said Judgment in favour of the petitioner to the effect that the guilt of the petitioner could not be established by the prosecution had been totally ignored by the 3rd respondent.

(ix) The 3rd respondent failed to give credence to the fact that the competent criminal Court gave a verdict in favour of the petitioner acquitting the petitioner and hence the charge in the departmental enquiry cannot be sustained as the very basis of charge is the alleged involvement of the petitioner in a criminal case and that criminal case is registered against the petitioner.

(x) The departmental enquiry conducted against the petitioner was in clear violation of principles of natural justice without adhering to the procedure contemplated under the rules for conduct of enquiry.

(xi) The order impugned passed by the 3rd respondent is based solely on the report of the disciplinary authority without considering the pleas put forth by the petitioner in

the elaborate and detailed representation submitted by the petitioner in pursuance to the order of the acquittal obtained in favour of the petitioner which has even been acknowledged by the office of the 3rd respondent herein, dated 14.09.2018,.

Basing on the aforesaid submissions the learned counsel appearing on behalf of the petitioner contends that the writ petition has to be allowed as prayed for.

6. Learned Special Government Pleader placing reliance on the averments made in the counter affidavit filed on behalf of the respondents mainly puts forth the following submissions:

(i) Though the criminal case ended in acquittal in favour of the petitioner, the respondents had imposed punishment by taking into consideration the disciplinary action against the petitioner herein since the departmental proceedings do not stand on same footing as a Criminal prosecution in which the degree of proof required is of a very high order.

(ii) The disciplinary action initiated against the petitioner was in strict compliance with the Telangana Civil Services

(Classification, Control & Appeal) Rules, 1991 and therefore the plea of the petitioner that the procedure contemplated under the said rules was not followed is incorrect.

(iii) In a criminal case it is punishment for crime, whereas in departmental proceedings it is a penalty for misconduct and about the suitability of the said employee to work. Therefore there is no illegality in the order passed by the 3rd respondent herein and the petitioner is not entitled for any relief as prayed for by the petitioner in the present writ petition and the writ petition is liable to be dismissed.

DISCUSSION AND CONCLUSION:

7. A bare perusal of the record indicates that the Article of Charge framed against the petitioner in the disciplinary proceedings initiated against the petitioner is that while the petitioner was working at Begumbazar Police Station, the petitioner involved himself in a criminal case by extorting an amount of Rs.1000/- and threatened one Sri Vikas Singh Maan, as such the case was registered against the petitioner at Begumbazar Police Station and thus the petitioner exhibited gross misconduct, negligence of duty and irresponsible attitude, which is unbecoming of a member of disciplined force and thereby the

petitioner had willfully contravened Rule 3(1), (2) & 3 of TSCS (Conduct) Rules, 1964.

8. A bare perusal of the judgment obtained in favour of the petitioner dated 01.03.2018 in C.C.No.835 of 2015 on the file of XVII Additional Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad clearly indicates that vide detailed speaking orders, the petitioner had been acquitted on merits for the offences under Sections 384, and 506 IPC on the ground that the prosecution had failed to establish the guilt of the accused for the offences alleged against the petitioner. This Court opines that the order impugned passed by the 3rd respondent dated 05.09.2019 cannot be sustained as the very basis of charge in the disciplinary proceedings initiated against the petitioner is the alleged involvement of the petitioner in a criminal case and that a criminal case is registered against the petitioner. The said charge framed in the disciplinary proceedings initiated against the petitioner is extracted hereunder:

“Charge under Rule-20 of TSCS (CC&A) Rules, 1991 for the following delinquency:

“Exhibited gross misconduct negligence of duty and irresponsible attitude, involved himself in a criminal case by extorting an amount of Rs.1000/- and threatened Sri Vikas Singh Maan, as such a case in Cr.No.84/2015 U/s 384, 506 IPC was registered against him at Begum Bazar 1 S”.

9. The observations of the Apex Court in few judgments and a judgment of Division Bench of this Court considering the sustainability of punishment imposed on an employee concerned in case of Departmental proceedings and criminal proceedings being based on same set of facts are extracted hereunder:-

A) The Apex Court, in the judgment of "G.M. Tank vs. State of Gujarat & Ors.," reported in (2006) 5 SCC 446, dated 10.05.2006 held that if the charges in the disciplinary proceedings are identical to those in the criminal case, and the employee has been honourably acquitted in the criminal case, then continuing with the disciplinary proceedings on the same charges would not be justified and the relevant paragraph Nos.30 and 31 of the said order are extracted hereunder:

30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, **the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same.** It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted

at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

31. In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed."

B) The Apex Court, in the judgment dated 30.03.1999 reported in (1999) 3 SCC 679 in M.Paul Anthony /s. Bharat Gold

Mines Ltd. and another in particular, at paragraph No.34
observed as under:

34. There is yet another reason for discarding the whole of the case of the respondents. **As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts**, namely, 'the raid conducted at the appellant's residence and recovery of incriminating articles therefrom.' The findings recorded by the Inquiry Officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by Police Officers and Panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the Inquiry Officer and the Inquiry Officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. **The whole case of the prosecution was thrown out and the appellant was acquitted**. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the "raid and recovery" at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex- parte departmental proceedings, to stand.

C) **The Apex Court, in the judgment dated 04.12.2023 reported in (2024) 1 SCC 175 in "Ramlal Vs. State of Rajasthan and others", in particular, at paragraph Nos.28 and 29 observed as under:**

28. Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of

law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original mark sheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. **The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.**

29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" — in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or **considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.** A fact is said to be "not proved" when it is neither "proved" nor "disproved" (see *Vijayee Singh v. State of U.P.* [*Vijayee Singh v. State of U.P.*, (1990) 3 SCC 190 : 1990 SCC (Cri) 378]).

D) The Division Bench judgment of this Court in A.P.S.R.T.C. Vs. T.Venkatapati reported in 1999(1) A.P.L.J. 189(HC), in W.A.No.124 of 1999, dated 04.02.1999 is extracted hereunder:-

1. The writ petitioner was prosecuted for alleged offence of murder of his wife. The death of the wife of petitioner took place on 25th of February, 1996. The petitioner was working as Depot Controller at Srikalahasti Depot of the Andhra Pradesh State Road Transport Corporation (for short the 'R.T.C.'). A prosecution was initiated against the petitioner after registration of crime. In

the mean while the department initiated departmental proceedings on the following charge

"For having involved in a criminal case of alleged killing on 25-2-1996 which has resulted in framing criminal case against you as Crime No. 30 of 1996 under Sec. 302 of the Indian Penal Code (I.P.C) by Muthyalareddypalli police station which amounts misconduct under Sec. 29 (xxxi) of A.P.S.R.T.C. Employees Conduct Regulations, 1963."

2. The criminal prosecution initiated against the petitioner ultimately ended in acquittal in S.C.No. 1 of 1997 before the learned IV Additional Sessions Judge, Tirupathi by judgment dated 8-8-1997. The said acquittal has become final. However, the disciplinary authority in the departmental-enquiry, upon completion of the enquiry passed orders on 28-11-1996 removing the petitioner from service. The petitioner preferred appeal against the said order. The same was dismissed. The review petition was also dismissed by the Regional Manager of the R.T.C. As a result, the petitioner filed the writ petition to challenge the order of his removal.

3. The learned Single Judge held that 1 the disciplinary authority was in error in holding the petitioner guilty of the charge framed against him in disciplinary proceedings in view of the judgment of the Court. The petitioner-delinquent was entitled to be cleared of the charge in disciplinary enquiry and accordingly allowed the writ petition.

4. Challenging the order of the learned single Judge, the R.T.C. has filed this Writ Appeal. We find no merit in the appeal inspite of the persuasion of the learned counsel for the appellant-R.T.C. We have already pointed out as to what charge was framed in the disciplinary enquiry against the petitioner. It has to be noted that the charge was not for the substantive act of having caused

death of the wife. The charge was only that petitioner was involved in a criminal case and the said involvement had resulted in framing of a criminal case for offence under Section 302 of the I.P.C. The argument of the learned counsel for the appellant is that in course of the enquiry the petitioner had himself stated that death of his wife was result of his delinquency. It is argued that in view of this admission of the petitioner the disciplinary authority was justified in accepting the same and Court cannot reappreciate the evidence. We fail to understand as to how the statement of petitioner was relevant in the instant case. The charge was only for involvement in a criminal case resulting in instituting of a criminal case against the petitioner. As soon as the criminal case itself was found to be untenable in Court of law, the very basis of the charge was knocked out. The charge should have been quashed as and when the criminal case ended in acquittal. Involvement in a criminal case which was not tenable in Court of law can hardly amount to any delinquency. It cannot be disputed that the disciplinary authority is entitled to hold disciplinary enquiry on the same charge as is before a Criminal Court because the scope of disciplinary enquiry and a criminal trial is different. But where the charge in the disciplinary enquiry is necessarily dependent on the result of the criminal case if the criminal case itself ends in favour of the delinquent, the charge in the disciplinary enquiry will become unsustainable one. In the facts and circumstances of the case having regard to the charge framed against the petitioner and having regard to the result of the criminal case, we have no manner of doubt that the learned single Judge was right in allowing the petitioner's claim.

E. The Division Bench judgment of this court, dated 02.09.2025 passed in W.A.No.611 of 2025 and in particular at para Nos 16 to 20 in identical circumstances observed as under :-

16. A perusal of the findings recorded by the criminal Court and the order passed by the respondent department, in the light of the decisions rendered by the Hon'ble Supreme Court cited above command that punishment inflicted on the appellant pursuant to the departmental proceedings cannot be sustained in the light of

the findings of the criminal Court rendered on identical set of facts and circumstance.

17. In the above situation, when the charges in the departmental enquiry and the charges framed against appellant/petitioner in the criminal trial are similar, this Court is of the considered opinion that the imposition of penalty of R.T.S.P for two stages for a period of two years with effect on future increment and pension, dated 23.08.2016 (final order) as confirmed in the appellate order dated 25.05.2018 was totally uncalled for, particularly in view of the fact that the criminal trial has negated the charges levelled against the appellant/petitioner.

18. In the considered opinion of this Court, the learned Single Judge fell in error in upholding the departmental proceedings overlooking and ignoring the findings of the criminal Court on the self-same allegations and the decisions rendered by the Hon'ble Supreme Court, in similar situation.

19. For all the aforesaid reasons, the order of the learned Single Judge cannot be sustained.

20. Accordingly, the Writ Appeal is allowed setting aside the order dated 13.03.2025 in W.P.No.17170 of 2019. The respondents are directed to grant all the consequential benefits including the monetary benefits of the appellant. There shall be no order as to costs.

10. A bare perusal of the record indicates that the witnesses in the criminal case in C.C.No.835 of 2015 on the file of the XVII Additional Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad, are same as the witnesses in the departmental proceedings initiated against the petitioner.

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11. The order impugned passed by the 3rd respondent does not give any reasons with regard to the findings of the Investigating Authority who had held the charge as proved except stating that the minutes of the O.E., of the Charged Officer i.e., the petitioner herein had been examined carefully and minutely. This Court opines that the order impugned passed by the 3rd respondent is bereft of reasons and there is no justification in arriving at the said conclusion. In view of the fact as borne on record that the judgment dated 01.03.2018 passed in C.C.No.335 of 2015 on the file of the XVII Additional Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad having become final and the same having attained its finality and it clearly indicates that it is a judgment passed on merits, therefore once the acquittal is on merits, the necessary consequences would be that the petitioner is entitled for all the consequential benefits including monetary benefits and service benefits as per petitioner's legal entitlement as if there is no blemish or blot on petitioner's service and the need for the departmental enquiry is obviated.

12. It is settled law that when an acquittal is on technical grounds, the authorities are entitled to conduct departmental enquiry on the same allegations and take appropriate disciplinary action. But here in the present case as stated earlier the

petitioner's acquittal is on merits, the material witnesses in the criminal case and the disciplinary proceedings are the same. The charge framed in the departmental proceedings initiated against the petitioner is in fact on the very ground that a criminal case had been registered against the petitioner and that the petitioner had exhibited gross misconduct, negligence of duty and irresponsible attitude, involving himself in a criminal case by extorting an amount of Rs.1000/- and further the petitioner had threatened Sri Vikas Singh Maan, as such a case in Cr.No.84/2015 U/s 384, 506 IPC was registered against the petitioner at Begum Bazar PS.

13. This Court opines that in view of the fact that the very criminal case registered against the petitioner, which had been the basis for initiation of disciplinary proceedings against the petitioner, ended in petitioner's acquittal on merits, the petitioner is entitled for the relief as prayed for in the present writ petition, since as soon as the criminal case itself was found to untenable in court of law, the very basis of the charge framed against the petitioner had been knocked out. The observations in the aforesaid judgments of the Apex Court and the observations of the Division Bench judgments of other High Courts as applied to the facts of the present case clearly indicate that the orders

impugned in the present writ petition warrant interference by this Court.

14. A bare perusal of the impugned order dated 10.06.2020 of the 2nd respondent herein in the appeal petition dated 27.09.2019 preferred by the petitioner against the order impugned dated 05.09.2019 of the 3rd respondent herein clearly indicates that it is an order passed without assigning any reasons without application of mind independently in a routine casual manner stating that there are no valid grounds to interfere with the penalty imposed against the petitioner.

15. A bare perusal of the order impugned dated 07.01.2021 passed by the Revisional Authority i.e., the 1st respondent herein in the Revision Petition preferred by the petitioner against punishment imposed against the petitioner vide the order impugned dated 05.09.2019 of the 3rd respondent herein, which had been confirmed by the Appellate Authority i.e., the 2nd respondent herein, vide its order dated 10.06.2020 clearly indicates that the 1st respondent did not apply his mind independently and simply rejected the revision petition preferred by the petitioner stating that the revision petition had been examined and the same had been rejected.

**The Apex Court in the judgment reported in (2010) 9 SCC 496 in
Kranti Associates Private Limited & Another v. Masood Ahmed
Khan & Others at para 47 observed as under :**

Para 47 : *Summarising the above discussion, this Court holds:*

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of

judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making,

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for

development of law, requirement of giving reasons, for the decision is of the essence and is virtually a part of "due process".

In view of the fact that the impugned order, dated 05.09.2019 vide D.O.No.7717 No.L&O/B6/1130/2015-19 passed by Disciplinary Authority, and impugned order vide RC No.601/T2/2019, dated 10.06.2020 passed by the appellate Authority and order impugned, dated 07.01.2021 vide Memo No.9187/Ser.II/A1/2020 passed by the Revisional Authority are admittedly as borne on record being bereft of reasons. The said three impugned orders are patently illegal and hence, liable to be set-aside.

16. TAKING INTO CONSIDERATION:

A) The aforesaid facts and circumstances of the case,

B) The submissions made by the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondents,

C) The Order impugned dated 05.09.2019 passed by the 3rd respondent vide D.O.No.7717

No.L&O/B6/1130/2015-19 (referred to and extracted above),

D) The order impugned dated 10.06.2020 in RC No.601/T2/2019 passed by the 2nd respondent rejecting the appeal petition dated 27.09.2019 preferred by the petitioner against the order impugned dated 05.09.2019 passed by the 3rd respondent (referred to and extracted above),

E) The order impugned dated 07.01.2021 passed by the Revisional Authority in the Revision Petition preferred by the petitioner against the order impugned dated 05.09.2019 passed by the 3rd respondent and upheld by the appellate authority i.e., the 2nd respondent herein vide its order dated 10.06.2020 (referred to and extracted above),

F) The verdict obtained in favour of the petitioner dated 01.03.2019 in C.C.No.835 of 2015 on the file of the XVII Additional Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad (referred to and extracted above),

G) The averments made in the counter affidavit filed on behalf of the respondents (referred to and extracted above),

H) The Article of Charge framed against the petitioner in the disciplinary proceedings initiated against the petitioner (referred to and extracted above),

I) The Enquiry Report in the disciplinary proceedings which in fact reflected findings in favour of the petitioner herein,

J) The observations of the Apex Court in the Judgments (referred to and extracted above),

K) The observations of the various Courts judgments (referred to and extracted above) and again enlisted below:-

i) (2006) 5 SCC 446

ii) (2024) 1 SCC 175

iii) (1999) 3 SCC 679

iv) 1999(1) A.P.L.J.189(HC)

V)(2010) 9 SCC 496

L) The observations of the Division Bench judgment, dated 02.09.2025 in W.A.No.611 of 2025 of this Court rendered in identical circumstances that when the charges in the departmental enquiry and the charges framed

against the petitioner in the trial Court are same then the imposition of penalty as confirmed by the appellate Authority, is wholly uncalled for in view of the fact that the trial Court had negated the charges leveled against the petitioner thereunder.

M) In the light of the discussion and conclusion as arrived at Para No.5 to Para 15 of the present order,

The Writ Petition is allowed as prayed for. The order impugned dated 05.09.2019 passed by the 3rd respondent as confirmed vide impugned proceedings dated 10.06.2020 of the 2nd respondent and further confirmed vide impugned proceedings dated 07.01.2021 of the 1st respondent are set aside and the respondents are directed to grant all consequential service and monetary benefits to the petitioner as per petitioner's legal entitlement as if, there is no blot on petitioner's service, within a period of six (06) weeks from the date of receipt of copy of the order. However, there is no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

//TRUE COPY//

Sd/-P.PONNA KRISHNA
ASSISTANT REGISTRAR

SECTION OFFICER

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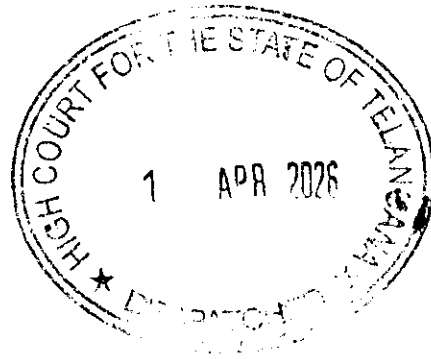
HIGH COURT

CC TODAY

DATED: 06/11/2025

ORDER

WP.No.24316 of 2022



ALLOWING THE WRIT PETITION
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