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Reserved on : 08.09.2026
Pronounced on : 22.09.2026

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE DAY OF 22ND SEPTEMBER 2026

PRESENT

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

AND

THE HON'BLE MRS JUSTICE HEMA KULKARNI

WRIT PETITION NO.104210 OF 2022 (S - KAT)

BETWEEN:

SRI K.ESHWAR
S/O LATE K. RAMANNA
AGED ABOUT 57 YEARS,
WORKING AS REVENUE INSPECTOR,
THEKKALAKOTE HOBLI,
SIRUGUPPA TALUK,
BALLARI DISTRICT.

... PETITIONER

(BY SRI SHARANABASAVARAJ C., ADVOCATE FOR SRI KUSHAL N.KOMBLE, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
M.S. BUILDING,
BENGALURU - 01.

2 . THE TAHASILDAR,
SIRUGUPPA,
BALLARI DISTRICT - 583 101.

... RESPONDENTS

(BY SRI SHARAD V.MAGADUM, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) SET ASIDE THE FINAL ORDER, DATED 28/09/2022 PASSED BY KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI BENCH AT BELAGAVI IN A.NO.10346/2019, CONSEQUENTLY, ALLOW THE APPLICATION NO.10346/2019.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY ***M.NAGAPRASANNA J.,*** MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA
and
HON'BLE MRS JUSTICE HEMA KULKARNI

CAV ORDER

(**PER: HON'BLE MR. JUSTICE M.NAGAPRASANNA**)

The petitioner is before the Court calling in question an order dated 28.09.2022, passed by the Karnataka State Administrative Tribunal, Belagavi[1], rejecting the application No.10346 of 2019 filed by the petitioner, which was calling in question an order dated 23.07.2019, whereby, pursuant to the disciplinary proceedings, the petitioner was imposed with punishment of compulsory retirement and permanently withholding 25% of his pension.

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[1] hereinafter referred to as 'the Tribunal' for short

2. Heard Sri. Sharanabasavaraj C., learned counsel appearing for the petitioner and Sri.Sharad V. Magadum, learned Additional Government Advocate for respondent Nos.1 and 2.

3. Facts adumbrated are as follows:

The petitioner at the relevant point in time was working as a Revenue Inspector. A complaint comes to be registered on 09.02.2012, alleging the petitioner having demanded illegal gratification of ₹4,000/- to make an entry of the name of the complainant in the khata. It transpires that on the basis of the complaint, a crime in Crime No.4 of 2012 comes to be registered against the petitioner for the offences punishable under Sections 7, 13(1) and (2) of the Prevention of Corruption Act, 1988[2]. On the same set of facts sprang another set of proceedings, a Departmental Inquiry on 03.07.2014 by issuance of Articles of Charges. In the departmental enquiry, the petitioner was found guilty of the offence and the Lokayukta, who had conducted the inquiry, recommended imposition of penalty of compulsory retirement along with withholding of 25% of the pension as and when the petitioner would retire permanently. The said order was called in question before the Tribunal and the Tribunal declines to

[2] hereinafter referred to as 'the Act' for short

interfere with the said order. Therefore, the petitioner is before this Court in the subject petition.

3.1. Intervening circumstance is that, the petitioner in terms of an order of the concerned Court of Sessions has been acquitted of the allegations in terms of the order dated 04.05.2019, which was also brought to the notice of the Tribunal, which declined to accept the fact that both the allegations stood on identical terms and would become applicable to the case in a departmental inquiry as well.

4. The learned counsel appearing for the petitioner would reiterate the grounds that he had urged before the Tribunal, contending that the petitioner has been acquitted of the offence on a clear finding that there was neither demand nor acceptance and the theory of the prosecution of acceptance of bribe of ₹4,000/- was only a story that was twined by the complainant and there was no evidence to that effect. It is observed that the prosecution had miserably failed to prove the guilt beyond all reasonable doubt and therefore, they acquitted both accused Nos.1 and 2. The petitioner stood as accused No.1 in the said trial. Learned counsel submits that the petitioner then brings it to the notice of the Tribunal that he had been acquitted in the criminal case. Therefore, the departmental inquiry which was on the same set of facts must be

obliterated. The Tribunal declines and therefore, the petitioner is now at the doors of the Court.

4.1. The learned counsel submits that the Lokayuktha has not preferred any appeal against the said order of acquittal, which is now 7 years old and the petitioner has retired from service. His terminal benefits are not settled on the score of the penalty that is imposed against him.

5. The learned Additional Government Advocate would however, refute the submissions in contending that merely because the petitioner has been acquitted in a criminal case, it would not *ipso facto* become applicable to a departmental inquiry. The departmental inquiry in which the petitioner is held guilty on preponderance of probabilities. Therefore, the probabilities had prevailed over the Lokayukta and recommending the penalty of compulsory retirement and withholding of 25% of the pension as and when he would retire. The order of the Tribunal would not warrant any interference, is the submission of the learned Additional Government Advocate.

6. We have given our anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated dates, events and link in the chain of events are all a matter of record. The alleged bribe of ₹4,000/- leads the complainant to register a complaint in Crime No.4 of 2012. The petitioner gets acquitted of the allegations in Special Case No.20 of 2013. The order of acquittal assumes significance to be noticed for a resolution of the *lis*, which reads as under:

> "21. In my view, in order to prove the case beyond reasonable doubt, court has to insist strict and corroborative evidence with consistency during depositions in witness box through the mouths of PWs.1 and 2. It is expected in criminal trial that prosecution has to support the story as indicated in recovery panchanama, complaint and statement u/S.161 of Cr.P.C. If there is no corroboration and some other different story evolved from the tongue of the witnesses in the witness box, necessarily court has to extend benefit of doubt. Now, I have to examine whether or not, the evidence of PWs. 1 and 2 are corroborative and consistent with the story as knitted by IO in Ex P.20 and statement of PWs. 1 and 2 u/S.161. Cr.P.C. It is needless to repeat the story as built up by the prosecution in Ex. P.20 and statement u/S.161 Cr.P.C statement, which is reproduced by me in the above para of this judgment.
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> 22. Now turning to the chief examination evidence of PW.1, he revealed what happened, when he entered inside the home office of accused No.1 in para 10 of page 6.
>
> > "**When, I went to R.I office, accused No.1 R.I., Kondaiah, Mallakarjuna and Thippalah were present. I had introduced pancha No.2 as my classmate who is doing Phd. as Sastish. When I discussed with accused No.1 for change of mutation he told that after filling the contents of application he will forward the same to Taluka Office**

> **today. Accused No.1 asked as to whether I have brought amount and I told that I brought it. Accused No.1 did not take the amount but when I went to hand-over the amount Kondaiah accused No.2 came and received it. After handing over amount to accused. No.2, I wiped my head by giving signal, Meantime the Lokayuktha police came and went to caught hold of the accused No.2 meanwhile accused No.2 threw notes on the ground**"

23. Now, I have to peruse what is story narrated by PW.2 in the chief examination, para No.3 of page No.4. According to PW.2, when himself and PW.1 together entered inside the home office of accused No. 1. He stated in evidence as follows; "After occupying seats infront of accused No.1 the complainant asked about his work then the accused No. 1 replied that today he will send the file to the Tahsildar Office, Ballari. The complainant requested to reduce the amount but the accused No.1 told that he will not reduce the amount. When the complainant went to hand over the amount of Rs.4,000/- to accused No.1, he called by name Kondaiah and his arrival asked him to receive the amount. Kondaiah received Rs.4,000/- from the complainant and then he kept in the left hand. Then myself and complainant came out of the office and complainant gave signal by wiping his head.

24. After close comparison of above three types of the stories narrated in the trap panchanama, statement u/S.161 of Cr.P.C. and depositions of PWs.1 and 2, it would not ensure that they are corroborative and consistent another. to one another PW.2 states in his evidence that when the complainant went to hand over Rs.4,000/ to accused No.1 he did not receive, but he called accused No.2 and asked him to receive the amount. Whereas PW.1 in the chief examination did not whisper that as per the direction of accused No.1, accused No.2 has received the amount. PW.1 has come up with story that when he went to hand over the amount to accused no.1, meanwhile, accused No.2 himself came and received the amount. So, PW.1 never intend to state in chief examination that it is as per the

directions of accused No.1, accused No.2 had received the amount. So, there is no consistency between the depositions of PW.1 and 2. In the statements of PWs.1 and 2 u/S. 161 of Cr.P.C. and also story stated in the trap panchanama, it is indicated that before handing over the money, PW.1 had requested for reduction and negotiation. But, in chief examination at para 10 of evidence of PW.1, he does not whisper anything about he requesting with accused No.1 for reducing the bribe amount. This is not in conformity with the stories deposed by PW.2 or the statements narrated in section 161 Cr.P.C. or trap panchanama marked as Ex.P.20. Therefore, in my view, court has to extend the benefit of doubt to accused persons. Because, above type of evidence of PWs 1 and 2 would not infuse confidence of the ordinary prudence to hold that there was negotiation for reduction of bribe and in the process accused No.1 demanded bribe and does not concede for reduction or at his demand and direction, accused No.2 had received the said amount of Rs.4,000/- marked as Mo.1. The punishment prescribed for offence u/Ss.7 and 13 of P.C. Act is harsh in nature. Hence, court has to insist for strict and corroborative evidence from the complainant and eyewitnesses. **Therefore, the Hon'ble High Court in 2010(3) KCCR 1851 (State Karnataka ..Vs.. M. Gopalakrishnaiah and Others), it is held that heavy burden is on the prosecution to prove its case beyond all reasonable doubt. The mode of proof in corruption case should be in par with the proof in criminal trial which is prescribed for the purpose of any of the offences for criminal prosecution. Therefore, in my view, any small doubt emanating from the evidence of the witnesses without corroboration between themselves or deviating from the earlier statement i.e. complaint and statement u/S.161 of Cr.P.C, to be benefited to the accused. Therefore, after taking out the evidence of PWs. 1 and 2 on the ground of contradictions, there is nothing on record to believe that at the behest and demand of accused No. 1. Mo.1 (cash of Rs.4000/-) was given in the hands of accused No.2.**

25. Further, prosecution is relying upon the voice recorder and also evidence of the person who allegedly identified the voice of accused No.1 i.e. PW. 12. Also the prosecution is relying upon the alleged transcript of trap CD (Mo.7) which is kept as per Ex.P.31. After close scrutiny of Ex.P.31, the alleged conversation and discussions between accused No.1 and PW.1 (allegedly contained in Mo.7), there is no consistency. There is no whisper in Ex.P.31 that accused No.1 has directed to accused No.2 to receive bribe amount of Rs.4,000/-. Similarly, there is no conversation in Ex.P.31 stating that accused No.1 has directed to PW.1 to hand over the amount to accused No.2. But, only one stray sentence about what accused No.1 directed to accused No.2 is indicated in column 8 of Ex.P.32 as 'PÀÆvÀPÀ½æÃ, ¯ÉÃ PÉÆAqÀAiÀÄå ZÉÃgï vÀUÁ' **Even if court is going to believe that Mo.7 (CD) is containing the text of voice conversation as indicated in Ex.P.31, it would not ensure that accused No. 1 has directed to accused No.2 to receive bribe from PW.1 or there is no conversation in Ex P.31 showing that accused No.1 has directed PW.1 to hand over bribe of Rs.4,000/- in the hands of accused No 2. Therefore, the said contradictory nature of evidence, i.e. Mo.7 and Ex.P.31 would not avail any help to the prosecution to prove that it is at the demand by accused No.1, PW.1 has forced to give bribe amount in the hands of accused No.2, as per the advice of accused No. 1. Therefore, the said evidence is not free from doubt.**

26. **Prosecution is relying upon the evidence of PW.18 (H. Thippaiah) to prove that at the time of demanding and accepting the bribe during trap mahazar on 3.7.2012, he was present and eyewitness to the incident. But, his evidence is falsifying the story of prosecution instead of supporting it, for the reason that he turned hostile to the case of prosecution. Even after cross examining by learned Spl. Public Prosecutor, nothing is elicited from the evidence of PW.18 to believe that on 3.7.2012 accused No.1 has demanded bribe of Rs.4,000/-and he directed to PW.1 to hand over the bribe to accused No.2** Another more evidence upon which prosecution relying is that Mo.7 sound is that of accused No. 1 and which is

recorded while he was demanding and accepting the bribe in his home office from PW. 1. To prove this fact of voice is of accused No.1, prosecution has examined the Sheristedar of Taluk Office (PW.12). **In the cross-examination on the side of advocate of accused No.2, PW 12 specifically come up with a story that there is no clarity in the voice of Mo.7.** Therefore, its correct transcript is not in Ex.P.31. Similarly, in chief examination itself PW.1 denies the contents of Exs.P.31 and 32. Then, learned Special Prosecutor treated him as hostile. Because, in chief examination he states that voice recorded in C.D may be belonging to accused No.1, thus he is not certain about the voice contained in Mo.7 is exactly that of accused No. 1. **Moreover, this PW.12 is not an expert person in identifying the voice stored in any electronic instrument. As per the case law of the Hon'ble Supreme Court, above cited Court has to insist for expert opinion of the analyst of the sound. In this case, I.O did not endeavor to get opinion of the expert after testing and verifying the admitted sound of PW.1 and sound contained in Mo.7. As held by me in earlier part of this judgment, Mo.7 is not an original device in which the conversation was recorded at the alleged time of discussion between accused No.1 and PW.1. Because, admittedly, it is uploaded and downloaded with another device laptop and stored in Mo.7. If that be so, the compliance of provisions of section of 65(B) of Indian Evidence Act is mandatory. So, affidavit containing the name of person who kept the device, its registration number and I.P number of the device, the name of the person who uploaded and downloaded in regular course of transaction is not at all produced on record.** So, the very foundation of marking article Mo.7 in the evidence is against to the well recognized procedure to be followed while admitting electronic evidence. Thus, this Court could not rely only on the self-convenient evidence of PW.22 stating that Mo.7 is containing original voice recorded in voice recorder allegedly provided to PW.1. Why the original voice recorder is not displayed and tendered during trial in the Court? This unanswered question is also throwing doubt in the story of PW.22. Therefore, the evidence of **PW.1 and 2, electronic device marked as Mo.7 and Ex.P.31 etc., is not free from doubt to prove the story that there was discussion between accused No.1 and PW.1 in the home office of accused No. 1 for requesting to reduce the bribe amount, but accused No.1 has not conceded and he directed accused No.2 to receive the bribe and then accused No.2 received the bribe from PW.1 Therefore, presumption U/s 20 would not come into play. Because, there is no sufficient evidence to prove that there was demand, direction, insistence by accused No.1 before transfer of amount of Rs.4,000/- to accused No.2 from PW.1 Therefore, point No. 1 and 2 raised for consideration by me are held in the negative.**

27. **Point No.3:** In the complaint, trap panchanama and statement U/S.161 Cr.P.C. of PWs.1 and 2, it is not at all case of the prosecution that there was demand by accused No.2 for performing the duty through accused No.1 regarding change of mutation of landed property. Even there is no any whisper regarding responsibility and duty of accused No.2 in respect of performing government duty towards complainant. From the evidence on record and depositions of P.Ws. 1, 2 and PW.22 it would not reveal that accused No.2 had knowledge about accused No.1 is demanding bribe from P.W.1 for the purpose of effecting mutation of landed property of his mother. Therefore, absolutely there is no any motive or intention in the mind of accused No.2 to receive the bribe from P.W.1 for the purpose of change of mutation through accused No.1 in respect of landed property pertaining to the mother of the complainant.

28. Further story of the prosecution is that knowingly, intentionally and at the instance of accused No.1, accused No.2 had received the bribe from hands of P.W.1. **As pointed out by me in the above para of the judgment (points No.1 and 2), absolutely there is no any evidence to the sufficient extent to prove that accused No.2 had demanded in the negotiation with PW.1 before the time of trap**

panchanama or if accused No.2 had common intention with accused No.1 to receive the bribe from P.W.1 by acting as his agent. Nothing is stated by P.Ws. 1 and 2 that accused No.2 also had knowledge and party to the demand and acceptance along with accused No.1. So, it is settled law that in criminal trial accused need not prove his case to the hilt as it is required on the part of the prosecution. But, if the accused is able to probablise and to raise a doubt in the case of the prosecution, such doubt, which is not fanciful, but would be a reasonable doubt emerging from evidence on record, in such a situation, it would be safe to give benefit of doubt to the accused rather than convicting him. This view is made clear in case law of Hon'ble High Court of Karnataka in **"2012 (4) KCCR 2534 (Sri T.P.Basavaraju Vs. Central Bureau of Investigation, Bangalore)."** The said principle is exactly applicable to the facts, evidence and circumstances in this case. Because, absolutely there is no evidence beyond reasonable doubt to prove that prior to acceptance of the money from P.W.1. accused No.2 had connivance and common intention with accused No.1 for receiving the bribe amount for the purpose of accused No.1 performing government duty of change of mutation to landed property. **Therefore, the evidence of P.Ws.1 and 2 could not be sufficient to prove mens-rea or intention on the part of accused No.2 for committing the offences U/Ss.7 & 13 of Probation of Corruption Act, 1988.**

29. Learned Spl. Public Prosecutor demonstrates before me that when there is test of chemical solution conducted to the hands of accused No.2 and it turned into pink, hence there is presumption U/S.20 that accused No.2 has received bribe. Whereas another story stated in the complaint and trap mahazar is that when P.W.22 entered inside the house of accused No.1, the currency notes (Mo. 1) were fallen on the floor and not in the hands of accused No.2. In the case law of the Hon'ble Supreme Court reported in "**2000 CrL.L.J. 2273, (Smt. M.B. Hemke ..vs.. State of Maharastra),"** it is held that

> **"When the chemically tested currency notes were found lying on the pad on table of accused which is recovered, such recovery not from person of the accused. Thus, recovery does not conclusively lead to inference of acceptance of bribe by accused".**

30. Therefore, in this case on the basis of probabilities, it may be inferred that without knowledge of accused No.2 about anything regarding work of P.W.1 pending with accused No.1, P.W.1 ventured to touch the currency notes through hands of accused No.2. Therefore, mere turning the hands of accused No.2 to pink colour in process of chemical test alone would not be sufficient to raise the presumption against accused No.2, holding that he has received amount (Mo.1) towards bribe.

31. In Suraj Mal V. State (Delhi Admn.) [1979 (4) SCC 725]: (AIR 1979 SC 1408) the Hon'ble Supreme Court took the view that (at SCC p.727, para2) mere recovery of tainted money divorced from the circumstances under which it is paid is not sufficient to convict the accused when the substantive evidence in the case is not reliable. The mere recovery by itself cannot prove the charge of the prosecution against the accused, in the absence of any evidence to prove payment of bribe or to show that the accused voluntarily accepted the money knowing it to be bribe."

32. The above principle is aptly applicable to the facts and evidence involved in the present case. Circumstances under which money is recovered in the home office of accused No.1 and mere touching of the money by accused No.2 in the incident would not be sufficient and substantial evidence to convict him for charges framed. Because, there is no cogent evidence to believe that accused No.2 had accepted the amount with knowledge, intention or voluntarily knowing that it is towards bribe amount to be paid to accused No.1 for discharging the government duty towards P.W.1. Thus, the evidence on record is not

sufficient to prove the charges levelled against accused No.2. Hence, Point No.3 is held in the negative.

33 **Point No.4**: For the above stated reasons and discussions on Points No.1 to 3, I proceed to pass the following:

ORDER

Acting u/S.235 (1) of Cr.P.C. accused No.1 and 2 are acquitted for the offences punishable u/Ss.7, 13 (1) (d) r/w 13 (2) of P.C. Act, 1988.

Acting U/S.437 (A) of Cr.P.C. both accused are directed to be released on regular bail execution of personal bond of Rs.50,000/-each with a surety for like-sum for the purpose of their appearance before this Court or Appellate Court in the event of any appeal is filed.

Mo.1 currency notes are ordered to be confiscated to the State and Mos.2 to 8 are being worthless, ordered to be destroyed after the appeal period is over.**"**

The Court clearly holds that the prosecution has miserably failed to prove the guilt beyond all reasonable doubt. It does not render the acquittal on the basis of benefit of doubt, but holds that there is no cogent evidence to believe that accused No.2 had accepted the amount with knowledge, intention or voluntarily knowing that it was towards the bribe amount to be paid to accused No.1. Thus, the evidence was not sufficient to prove the allegations against any of the accused. Therefore, accused Nos.1 and 2 stood acquitted.

8. As observed hereinabove, on the basis of the said incident of the trap being laid against accused No.1, the other proceeding *i.e.,* the departmental enquiry had sprung. In the departmental enquiry, the Lokayukta which conducted the enquiry holds the petitioner guilty of the allegations and recommends imposition of penalty of compulsory retirement with 25% of the pension permanently to be withheld as and when the petitioner would retire from service. The recommendation is as follows:

> **"7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against DGO- shri K. Eshwar s/o. K. Ramanna, Revenue Inspector, Moka Hobli, Ballari District, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service and also, to permanently withhold 25% of the pension payable to DGO - Shri K. Eshwar'**
>
> 8. Action taken in the matter shall be intimated to this Authority."

8.1. Pursuant to the said recommendation, a second show cause notice was issued to the petitioner, which reads as follows:

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ:ಕಂಇ 16 ಬಿಡಿಪಿ 2014	ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ,
(ಲಗತ್ತು: ವಿಚಾರಣಾ ವರದಿ ಮತ್ತು ಉಪ ಲೋಕಾಯುಕ್ತರ ಶಿಫಾರಸ್ಸಿನ ಪ್ರತಿಗಳು)	ಬಹುಮಡಿ ಕಟ್ಟಡ ಬೆಂಗಳೂರು, ದಿನಾಂಕ 04.08.2018.

2ನೇ ಕಾರಣ ಕೇಳುವ ನೋಡೀಸು

ಶ್ರೀ ಕೆ. ಈಶ್ವರ, ಆದ ನೀವು ಬಳ್ಳಾರಿ ಜಿಲ್ಲೆ, ಬಳ್ಳಾರಿ ತಾಲ್ಲೂಕು, ಮೋಕ ಹೋಬಳಿ ಇಲ್ಲಿ ಕಂದಾಯ ನಿರೀಕ್ಷಕರಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಕರ್ತವ್ಯಚ್ಯುತಿ ಎಸಗಿರುವುದಾಗಿ ಆರೋಪವಿರುತ್ತದೆ:–

> "ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಜಾಲಿಹಾಳ್ ಗ್ರಾಮದ ಸ.ನಂ. 88/ಬಿ1ರಲ್ಲಿನ 1–42 ಎಕರೆ ಜಮೀನಿನ ಖಾತೆಯನ್ನು ಪ್ರಕರಣದ ದೂರುದಾರರಾದ ಶ್ರೀ ತಿಪ್ಪೇಸ್ವಾಮಿ.ಟಿ ಬಿನ್ ಲೇಟ್ ಟಿ. ಹನುಮಂತಪ್ಪ ಇವರ ತಾಯಿಯ ಹೆಸರಿಗೆ ಬದಲಾಯಿಸಲು ದೂರುದಾರರನ್ನು ಲಂಚದ ಒತ್ತಾಯಿಸಿ ದಿನಾಂಕ:03.07.2012 ರಂದು ಶ್ರೀ ರಂಗಸ್ವಾಮಿ ಎಂಬ ಏಜೆಂಟ್ ಮೂಲಕ ರೂ.4000/–ಲಂಚದ ಹಣವನ್ನು ಸ್ವೀಕರಿಸಿ ಲೋಕಾಯುಕ್ತ ಪೋಲೀಸರಿಗೆ ಸಿಕ್ಕಿಬಿದ್ದಿರುತ್ತೀರಿ"

ಈ ಪ್ರಕರಣದ ವಿಚಾರಣೆಯನ್ನು ಮಾನ್ಯ ಉಪ ಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿ ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 16 ಬಿಡಿಪಿ 2014, ದಿನಾಂಕ:26.02.2014ನ್ನು ಹೊರಡಿಸಲಾಗಿತ್ತು. ಪ್ರಸ್ತುತ, ಈ ಪ್ರಕರಣದ ವಿಚಾರಣೆಯನ್ನು ಪೂರ್ಣಗೊಳಿಸಿ, ಸಲ್ಲಿಸಲಾಗಿರುವ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ, ನಿಮ್ಮ ವಿರುದ್ಧದ ಮೇಲ್ಕಂಡ ಆರೋಪವು ಸಾಬೀತಾಗಿರುವುದಾಗಿ ತಿಳಿಸಲಾಗಿದೆ. ವಿಚಾರಣಾ ವರದಿ ಸಂಖ್ಯೆ:LOK/INQ/14-A/354/2014/ARE-11 ದಿನಾಂಕ:09.07.2018 ಮತ್ತು ಮಾನ್ಯ ಉಪ ಲೋಕಾಯುಕ್ತ ರವರ ಶಿಫಾರಸ್ಸು ಸಂಖ್ಯೆ: LOK/INQ/14-A/354/2014/ARE-11, ದಿನಾಂಕ:11.07.2018ರ ಪ್ರತಿಗಳನ್ನು ಈ ನೋಟೀಸಿನೊಂದಿಗೆ ಲಗತ್ತಿಸಲಾಗಿದ್ದು, ವಿವರಗಳು ಸ್ವಯಂವೇದ್ಯವಾಗಿವೆ.

ವಿಚಾರಣಾ ವರದಿ ಮತ್ತು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರ ಶಿಫಾರಸ್ಸಿನ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ನಿಮ್ಮ ವಿರುದ್ಧ ಏಕೆ ಕ್ರಮ ಕೈಗೊಳ್ಳಬಾರದು ಎಂಬ ಬಗ್ಗೆ ನಿಮ್ಮ ಸಮಜಾಯಿಷಿ ಏನಾದರೂ ಇದ್ದಲ್ಲಿ, ಅದನ್ನು ಲಿಖಿತ ರೂಪದಲ್ಲಿ ಈ ನೋಟೀಸು ತಲುಪಿದ 15 ದಿನಗಳ ಒಳಗಾಗಿ ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಯವರು, ಕಂದಾಯ ಇಲಾಖೆ, 3ನೇ ಹಂತ, 5ನೇ ಮಹಡಿ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ, ಬೆಂಗಳೂರು–560 001, ಇವರಿಗೆ ಸಲ್ಲಿಸತಕ್ಕದ್ದು, ನಿಗಧಿತ ಅವಧಿಯೊಳಗಾಗಿ ನಿಮ್ಮ ಹೇಳಿಕೆ/ಸಮಜಾಯಿಷಿ ಸ್ವೀಕೃತವಾಗದಿದ್ದಲ್ಲಿ, ನೀವು ಹೇಳುವುದು ಏನೂ ಇಲ್ಲವೆಂದು ಭಾವಿಸಿ, ನಿಯಮಾನುಸಾರ ಮುಂದಿನ ಸೂಕ್ತ ಕ್ರಮ ಜರುಗಿಸಲಾಗುವುದುದೆಂದು ಈ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ.

(ವಸಂತಕುಮಾರ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಕಂದಾಯ ಇಲಾಖೆ (ಸೇವೆಗಳು–2)

ಇವರಿಗೆ:
ಶ್ರೀ ಕೆ. ಈಶ್ವರ,
ಕಂದಾಯ ನಿರೀಕ್ಷಕರು,
ಮೋಕ ಹೋಬಳಿ, ಬಳ್ಳಾರಿ ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ.
(ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಬಳ್ಳಾರಿ ಜಿಲ್ಲೆ, ಬಳ್ಳಾರಿ ಇವರ ಮುಖಾಂತರ)

8.2. The petitioner submits his detailed reply and the reply did not find favour with the government and the government imposed the said penalty as was recommended by the Lokayukta. The said order of penalty dated 23.07.2019, reads as follows:

<u>**ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 16 ಬಿಡಿಪಿ 2014**</u>
<u>**ಬೆಂಗಳೂರು, ದಿನಾಂಕ:23.07.2019.**</u>

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು 1957ರ ನಿಯಮ 8(vi) ಮತ್ತು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ ನಿಯಮಾವಳಿಗಳ ನಿಯಮ 218ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಸರ್ಕಾರವು ಶ್ರೀ ಕೆ. ಈಶ್ವರ, ಅಂದಿನ ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಮೋಕಾ ಹೋಬಳಿ, ಬಳ್ಳಾರಿ ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ ಇವರಿಗೆ ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಸರ್ಕಾರಿ ಸೇವೆಯಿಂದ ಕಡ್ಡಾಯ ನಿವೃತ್ತಿಗೊಳಿಸುವ ಮತ್ತು ಅವರ ನಿವೃತ್ತಿ ವೇತನದಲ್ಲಿ ಶೇಕಡ 25% ಭಾಗವನ್ನು ಶಾಶ್ವತವಾಗಿ ತಡೆಹಿಡಿಯುವ ದಂಡನೆಯನ್ನು ವಿಧಿಸಿ ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಸಹಿ/-
(ವಿ.ನಾಗೇಶ ರಾವ್)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಕಂದಾಯ ಇಲಾಖೆ (ಸೇವೆಗಳು-2)

(Emphasis added at each instance)

The petitioner then calls the afore-quoted order in question before the Tribunal. The Tribunal though notices the acquittal of the petitioner by the criminal Court declines to interfere with the order on the score that in a departmental enquiry, the petitioner is held guilty on probabilities being preponderant and in the criminal trial may be on beyond all reasonable doubt. Therefore, the two are different and therefore, the petition stood dismissed.

9. The issue now would be whether on the acquittal of the petitioner in the said criminal case, the departmental inquiry pursuant to which the petitioner has imposed the said penalty requires to be interfered or otherwise. Jurisprudence is replete with

the judgments of the Apex Court on the issue, both of non-interference and of interference, when the issue is the same. The answer lies in the elucidation of law by the Apex Court.

10. The Apex Court in few of the cases has declined to interfere and in few has interfered and obliterated departmental enquiry on the ground of acquittal by the competent Court in the criminal case.

CASES WHERE THE APEX COURT HAS DECLINED TO INTERFERE:

11.1. The Apex Court in the case of **KARNATAKA POWER TRANSMISSION CORPORATION LIMITED v. C. NAGARAJU**[3] has held as follows:

"…. …. ….

> **9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different.** They operate in different fields and have different objectives. [*Ajit Kumar Nag* v. *Indian Oil Corpn. Ltd.*, (2005) 7 SCC 764: 2005 SCC (L&S) 1020] In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are

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[3] **2019 SCC OnLine SC 1192**

significantly distinct and different. [*State of Rajasthan* v. *B.K. Meena*, (1996) 6 SCC 417: 1996 SCC (L&S) 1455]

… … …

13. Having considered the submissions made on behalf of the appellant and Respondent 1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. **The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in the departmental inquiry is different from that produced during the criminal trial. The object of a departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service.** The standard of proof in a departmental inquiry is not strictly based on the rules of evidence. **The order of dismissal which is based on the evidence before the inquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needed no interference by the High Court."**

11.2. The Apex Court in the case of **STATE OF KARNATAKA v. UMESH**[4] holds as follows:

"…. …. ….

16. The principles which govern a disciplinary enquiry are distinct from those which apply to a criminal trial. In a prosecution for an offence punishable under the criminal law, the burden lies on the prosecution to establish the ingredients of the offence beyond reasonable doubt. **The accused is entitled to a presumption of innocence. The purpose of a disciplinary proceeding by an employer is to enquire into an allegation of misconduct by an employee which results in a violation of the service rules governing the relationship of employment. Unlike a criminal prosecution where the charge has to be established beyond reasonable doubt, in a disciplinary proceeding, a charge of misconduct has to be established on a preponderance of probabilities. The rules of evidence which apply to a criminal trial are distinct from those which govern a**

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[4] 2022 SCC OnLine SC 345

disciplinary enquiry. The acquittal of the accused in a criminal case does not debar the employer from proceeding in the exercise of disciplinary jurisdiction."

11.3. The Apex Court in the case of **DIRECTOR MARKETING OF AGRICULTURAL v. D.KHASIM SAHEB[5],** has held as follows:

"....   ....

5. Learned counsel for the respondent relied upon the two judgments of this Court in the case of G.M.Tank vs. State of Gujarat reported in 2006 (5) SCC 446 and in the case of Ram Lal vs. State of Rajasthan & Ors. reported in 2024(1) SCC 175, respectively.

6. We however, completely disagree with the findings of the High Court on this important aspect. **Merely because the respondent has been acquitted by a Criminal Court that alone would not result in his reinstatement in service when he has been dismissed from service after a departmental proceeding. This is for the simple reason that the standard of proof and the appreciation of evidence in a departmental proceeding is entirely different from that in a Criminal Court of law. Whereas in a Criminal Court the prosecution has to prove its case beyond reasonable doubt, in departmental proceedings, the prosecution has to only prove its case on preponderance of probabilities, for which there was enough evidence for the purposes of a departmental enquiry.**

7. There is long-line of judgments of this Court reiterating this position of law starting with Union of India vs Bihari Lal Sidhana (1997) 4 SCC 385, The Deputy Inspector General of Police and Ors. vs S. Samuthiram (2013) 1 SCC 598 and Karnataka Power Transmission Corporation Limited vs. C. Nagaraju and Ors. (2019) 10 SCC 367

8. Under these circumstances, we totally disagree with the finding of the Division Bench of the Andhra Pradesh High Court. Consequently, we allow this appeal and set aside the order dated 02.05.2023 of the Andhra Pradesh High court."

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[5]SLP © No.22224/2023 decided on 13-02-2025

CASES WHERE THE APEX COURT HAS OBLITERATED DEPARTMENTAL PROCEEDINGS ON ACCOUNT OF ACQUITTAL IN CRIMINAL CASES:

12.1. The Apex Court in the case of **RAM LAL v. STATE OF RAJASTHAN**[6] holds as follows:

"…. …. ….

> **12.** However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the Court in judicial review concludes 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, the Court in judicial review can grant redress in certain circumstances. **The Court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive.** Each case will turn on its own facts. (See *G.M. Tank* v. *State of Gujarat* [*G.M. Tank* v. *State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , *State Bank of Hyderabad* v. *P. Kata Rao* [*State Bank of Hyderabad* v. *P. Kata Rao*, (2008) 15 SCC 657 : (2009) 2 SCC (L&S) 489] and *S. Samuthiram* [*State of T.N.* v. *S. Samuthiram*, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] .)
>
> ***Discussion***
> ***Validity of the disciplinary proceeding — Question 1***
>
> **13.** A brief analysis of the facts of the case is essential. The origin of this dispute, which does not inspire confidence at all, is as follows. The appellant's cousin Shravan Lal (PW 4 in the departmental enquiry and PW 6 in the criminal case), deposed as under before the enquiry officer:
>
> > "Stated on enquiry that about 13 months ago, I was operating engine at well. On that day at about 3.00 p.m., Ramlal after drinking liquor, came at well and switched off the engine. Thereafter, Ramlal abused me and scuffled with me and said that today I will operate the engine and you cannot do anything to me. I have

[6] **(2024) 1 SCC 175**

> received job by fooling the Government. When I enquired him that how you did that, then, Ramlal told me that I have received job by altering my date of birth as 21-4-1972 in my marksheet, whereas, my date of birth was 21-4-1974. *Thereafter I went to school and enquired about this fact, whereupon I came to know that his date of birth was 21-4-1974*. Due to this reason, I produced an application before the Superintendent of Police, Ajmer and made one report to the Commandant, 9th Battalion, RAC, Tonk and I also made one report to the Hon'ble Chief Minister and one report to DIG, RAC, Rajasthan, Jaipur…."
>
> (emphasis supplied)

14. A FIR was registered on 2-9-2002. A charge-sheet in the departmental proceeding was issued on 2-4-2003. It will be relevant to extract the two charges in the disciplinary proceedings:

> "***Charge 1:***
>
> In the year 1991, an application for appointment on the post of Constable was made by you, along with which, marksheet of 8th pass issued by Government Secondary School, Tiloniya (Ajmer), bearing Roll No. 323 and Admission No. 2314, in which, your date of birth was mentioned as 21-4-1974, but you by altering it to 21-4-1972, fraudulently got recruited on the post of Constable.
>
> ***Charge 2:***
>
> As a result of altering your date of birth from 21-4-1974 to 21-4-1972 in the marksheet issued by the Government Secondary School, Tiloniya (Ajmer), Crime No. 183/02 under Sections 420, 467, 468, 471IPC was registered against you in PS Mandor, District Jodhpur."

15. Five witnesses were examined in the departmental enquiry, namely, PW 1 Jagdish Chand, Principal in Government Secondary School, Village Tiloniya, PW 2 Bhawani Singh (Constable who was tasked to bring the school records), PW 3 Karan Sharma, who was Circle Officer and had recorded the statement of Shravan Lal; PW 4 Shravan Lal and PW 5 Raj Singh who conducted the investigation of the criminal case.

16. The evidence of PW 5/Raj Singh, as set out in the enquiry report taken as it is, is significant since he clearly disproved the charge. He stated the following in the cross-examination before the enquiry officer:

> "Raj Singh you conducted investigation of Crime No. 102 and sent the copy to Commandant, 9th

Battalion, RAC, Tonk, what documents you sent along with the same — The documents which were sent by me were copy of FIR, copy of charge-sheet which was submitted in the court and statements of witnesses recorded during the investigation and documents; whose photocopies were also given to the accused.

Whether you had sent the copies of statements recorded in the aforesaid case to the Commandant — I did not send the copies to Commandant Sahab.

Which officer had submitted the charge-sheet, order of result in the court — the then SHO of PS Mandor, District — Jodhpur City, namely, Shri Ram Pratap submitted result of investigation, order and charge-sheet against the accused, in the court.

During the investigation, you had recorded statements of Dharmendra Kumar Jatav and Jairam Gurjar, did you record more statements and whether you would identify the copies of those statements — Yes, I recorded the statement of witnesses as it is. And I am producing herewith the statements of both the aforesaid witnesses.

Whether those have been written by yourself — Yes, those statements have been written by me, which are Ext. D-1 and Ext. D-2. In Ext. D-1, I recorded statement of Teacher, namely, Rakishan Dev Murari on A to B part and I filled the marksheet of Ramlal, wherein, date of birth of Ramlal is mentioned as 21-4-1972 in C to D part, which has been written as per the dictation of Checking Teacher Ramkishan Dev Murari.

Date of birth of 21-7-1972 mentioned on E to F part, was not mentioned in deliberate manner, in fact, same has been written due to the human error, whether you are agree with this statement — This statement is correct, whereas, at the time of filling up form for recruitment in Police RAC, Ramlal could enclose TC of 9th Pass, and he was studying in 10th class."

17. Thereafter, referring to Ext. D-2 (statement of Jairam Gurjar), he deposed as under:

"Similarly, in Ext. D-2, on A to B part, you have shown me the photocopy of 8th class marksheet of Ramlal s/o Shri Tejuram Chaudhary, r/o Tiloniya, on which, signatures of it's issuer i.e. Teacher, namely, Shri Dharmendra Kumar, Ramkishan Dev Murari and Headmaster Shri Vishnu Miyani are mentioned. I am acquainted with their signatures."

18. Most importantly dealing with the 8th class marksheet of the appellant, which formed the basis for his application seeking appointment as Constable, PW 5/Raj Singh stated as under:

> "The 8th class marksheet of Ramlal enclosed in the documents, which is *Ext. P-3*, (sic) in which, whether any alteration has been found in the date of birth anywhere, and whether date of birth has been mentioned as 21-4-1972 therein — Yes, no alteration has been made in the marksheet of 8th class and date of birth is 21-4-1972."

(emphasis supplied)

19. It is very clear from the above that no alteration was found in the appellant's 8th class marksheet (which forms part of the enclosed documents sent to the Commandant) and the date of birth mentioned on it was 21-4-1972. Reference to 'P-3' in the above extract appears to be a mistake. The charge-sheet and documents enclosed were Exts. P-12/1 to P-12/12. The defence also exhibited the original 8th class marksheet separately as Ext. D-3, as is clear from the chart of exhibits set out in the enquiry report.

20. The enquiry officer, after setting out the depositions of the witnesses, set out the chart of the "P" series exhibits and the exhibits of the delinquent, namely, the "D" series, and without any further discussion or marshalling of the evidence recorded the following with regard to Charge 1:

> **"On perusal of statement of witnesses, namely, PW 1, PW 2, PW 3, PW 4, PW 5 and Exts. P-1 to P-12, it is clear that correct date of birth of delinquent Constable was 21-4-1974. When, delinquent Constable submitted application for recruitment on the post of Constable, at that time, he did not complete the age of 18 years, therefore, due to the apprehension of rejection of his application due to the less age, delinquent Constable has altered his date of birth as 21-4-1972 from 21-4-1974, therefore, Charge 1 stands proved.**
>
> Delinquent Constable has also passed 10th class, whose marksheet is Ext. P-4, in which, his date of birth is mentioned as 21-4-1974."

21. Insofar as Charge 2 was concerned, it was merely noticed that challan had been filed in the criminal case as on 28-2-2004, the date of enquiry report, and that the trial had not concluded.

22. In the operative part of the enquiry report under the head, "conclusions", there is no reference to the 8th class marksheet, (which was part of the enclosed documents sent by Constable Raj Singh with the charge-sheet) or to Ext. D-3 (the original 8th class marksheet) exhibited by the defence. There is also no reference to the statement of Raj Singh PW 5 in the enquiry, who had acknowledged that there was no alteration in the marksheet of the 8th class. What is referred to in the chart of exhibits are letter of Jagdish Chand (Ext. P-1); the duplicate marksheet of 8th class issued by Jagdish Chand (Ext. P-2); the statement of Shravan Lal (Ext. P-3); 10th class marksheet of Secondary Education Board Rajasthan, Ajmer (Ext. P-4); preliminary enquiry dated 16-10-2002 by Circle Officer, Kishangarh (Ext. P-5); FIR No. 183/2000 (Ext. P-6); application submitted by Ram Lal for recruitment to the post of Constable (Ext. P-7); letter of appointment dated 8-11-1991 (Ext. P-8); verification letter filed by Ramlal (Ext. P-9); appointment order dated 16-12-1991 (Ext. P-10); letter of Government School Tiloniya (Ext. P-11); and charge-sheet dated 24-4-2003 (Ext. P-12).

23. It is very clear that relevant and material evidence being, the deposition of PW 5/Raj Singh; the marksheet of 8th class of the appellant (enclosed to the charge-sheet) and the original marksheet independently marked as Ext. D-3 by the defence have been completely left out in the discussion and consideration. Inference has been drawn about the proof of the charges by ignoring crucial, relevant and material evidence which had come on record. The evidence of PW 5 Raj Singh and the marksheet enclosed in the documents annexed to the charge-sheet and the original marksheet marked as Ext. D-3, were materials having a direct bearing on the charge. **The disciplinary authority has merely reiterated the reasoning in the enquiry report. Equally so are the findings of the appellate authority. It is well settled that if the findings of the disciplinary authorities are arrived at after ignoring the relevant material the court in judicial review can interfere. It is only to satisfy ourselves to this extent, that we have scrutinised the material to see as to what was reflected in the record. We are satisfied that the disciplinary proceedings are vitiated and deserve to be quashed.**

24. In this scenario, we are inclined to accept the explanation given by the appellant that overwriting in the application form was only due to correction of an inadvertent error. As long as the original 8th standard marksheet reflected his date of birth as 21-4-1972 and there is no correction or manipulation in that document, the appellant cannot be penalised.

Effect of acquittal in the criminal proceeding — Question 2

25. With this above background, if we examine the criminal proceedings the following factual position emerges. The very same witnesses, who were examined in the departmental enquiry were examined in the criminal trial. Jagdish Chandra, Bhawani Singh, Shravan Lal, Raj Singh and Karan Sharma were examined as PW 2, PW 3, PW 6, PW 9 and PW 13 respectively at the criminal trial. Apart from them, eight other witnesses were also examined. The gravamen of the charge in the criminal case was that the appellant had submitted an application for recruitment along with his marksheet and he, by making alteration in his date of birth to reflect the same as 24-4-1972 in place of 21-4-1974, and obtained recruitment to the post of Constable.

26. Though the trial court convicted the appellant under Section 420IPC, the appellate court recorded the following crucial findings while acquitting the appellant:

> "…Mainly the present case was based on the documents to this effect whether the date of birth of accused is 21-4-1972 or 21-4-1974. *Ext. P-3 is original marksheet, in which, the date of birth of accused has been shown as 21-4-1972 and same has also been proved by the witnesses examined on behalf of the prosecution*. Whatever the documents have been produced before the court regarding the date of birth of 21-4-1974 are either the letters of Principal or are duplicate TC or marksheets. Neither the prosecution has produced any such original documents in the subordinate court to this effect that when the admission form of accused was filled, what date of birth was mentioned by the accused in it, what was the date of birth in Roll Register of School, what date of birth was mentioned by accused in the examination form of Secondary, and nor after bringing the original records from the witnesses concerned, same were got proved in the evidence. In these circumstances, this fact becomes doubtful that date of birth of the accused was 21-4-1974, and the accused is entitled to receive its benefit. In the considered opinion of this Court, the conviction made by the learned subordinate court merely on the basis of oral evidence and letters or duplicate documents, is not just and proper. It is justifiable to acquit the accused.

> Resultantly, on the basis of aforesaid consideration, the present appeal filed by the appellant-accused is liable to be allowed."
>
> (emphasis supplied)
>
> **27.** What is important to notice is that the Appellate Judge has clearly recorded that in the document Ext. P-3 — original marksheet of the 8th standard, the date of birth was clearly shown as 21-4-1972 and the other documents produced by the prosecution were either letters or a duplicate marksheet. No doubt, the Appellate Judge says that it becomes doubtful whether the date of birth was 21-4-1974 and that the accused was entitled to receive its benefit. However, what we are supposed to see is the substance of the judgment. **A reading of the entire judgment clearly indicates that the appellant was acquitted after full consideration of the prosecution evidence and after noticing that the prosecution has miserably failed to prove the charge (see *S. Samuthiram* [*State of T.N.* v. *S. Samuthiram*, (2013) 1 SCC 598: (2013) 1 SCC (Cri) 566: (2013) 1 SCC (L&S) 229]).**
>
> **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 marksheet 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."**

The Apex Court in the afore-narrated cases holds where the criminal and departmental proceedings rest on substantially the same chargers, witnesses, evidence and circumstances, and the criminal Court has fully considered the evidence and found the prosecution case to have failed, the findings in the disciplinary proceedings can be interfered with, if not interfered, it would become unjust, unfair and oppressive. The Apex Court also holds that expressions like 'benefit of doubt' and 'honourably acquitted', used in the judgments are not to be understood as magical incantations and the Court in judicial review is obliged to examine the substance of the judgment and not to be swayed away in the form used.

12.2. The Apex Court later in the case of **MAHARANA PRATAP SINGH v. STATE OF BIHAR**[7] has held as follows:

"....   ....

> **47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in *G. M. Tank* (supra), since reinforced by a decision of recent origin in *Ram Lal* v. *State of Rajasthan*.**
>
> **48.** To assess the degree of similarity between the charges, evidence, witnesses, and circumstances in the disciplinary and criminal proceedings, it is indeed crucial to review the materials placed before the Court where such an issue arises. However, we regret, absence of the departmental file has disabled us from looking into the same.
>
> **49. Notwithstanding the above, a plain reading of the materials available on record only reveals that charge**

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[7] **2025 SCC OnLine SC 890**

no. 1 in the disciplinary closely resembled the allegations in the criminal proceedings. In fact, the disciplinary proceedings were initiated based on the written complaint of the informant.

50. The judgment acquitting the appellant reveals that the prosecution "miserably failed to prove its case beyond reasonable doubt" as both the informant and PW-2 refused to identify the appellant in court. This discussion confirms that the appellant's acquittal was based not on mere technicalities. In *Ram Lal* (supra), this Court held that terms like "benefit of doubt" or "honourably acquitted" should not be treated as formalities. The Court's duty is to focus on the substance of the judgment, rather than the terminology used.

51. That apart, it is noteworthy that in course of the inquiry PW-2 had also declined to identify the appellant during cross-examination, and the informant was not called as a witness in the disciplinary proceedings. This sort of creates a parallel between the circumstances in both the criminal and disciplinary proceedings.

52. Besides, the appellant's case is strengthened by the principle of adverse inference. It can be reasonably inferred that the respondents deliberately withheld the scanned copy of the departmental file, which was essential for us to assess whether the charges, witnesses, evidence, and circumstances in both the criminal and departmental proceedings were substantially similar or identical, likely due to concerns over the potential adverse consequences.

53. In light of the preceding discussion and the adverse presumption that is available to be drawn, we hold that the finding of the appellant being guilty of charge no. 1 cannot be sustained following his acquittal in the criminal proceedings, which seem to have involved substantially similar or identical charges, evidence, witnesses, and circumstances."

The Apex Court again reiterates that the acquittal in a criminal case cannot automatically entitle the accused to have the order in the departmental enquiry to be set aside. If the charges, evidence, witnesses and circumstances in both the departmental inquiry and the criminal proceedings are identical, the Court should not hesitate to quash the order of dismissal. This judgment is rendered on 23-04-2025 and the judgment in **KHASIM SAHEB** (*supra*) is rendered on 13-02-2025.

12.3. A Division Bench of this Court also considers an identical issue in the case of **SRI CHIDANANDA v. THE UPALOKAYUKTA**[8] and holds as follows:

"…. …. ….

> 13. At the same time the Supreme Court has carved out a limited exception to the aforesaid rule. In **G. M. Tank vs State of Gujarat and Others** reported in **(2006) 5 SCC 44** which has been followed in **Ram Lal vs State of Rajasthan and Others** reported in **(2024) 1 SCC 175** and **Maharana Pratap Singh vs The State of Bihar and Others** reported in **Civil Appeal No. 5497/2025, DD 23.04.2025** it has been held that where charges, witnesses, evidence, and circumstances in the criminal trial and the departmental enquiry are identical or substantially similar, and the Criminal Court records a clear acquittal on merits after completely disbelieving the prosecution case, it may be unjust, unfair and oppressive to sustain the disciplinary punishment, particularly where the enquiry is founded on no additional or independent evidence.
>
> 14. Equally, the Supreme Court in the case of ***State of Karnataka and Another vs Umesh*** *reported* ***in*** **(2022) 6 SCC 563**, reiterated that the departmental proceedings are independent of the criminal prosecution, and that misconduct is to be assessed on the standard of preponderance of probabilities. It was held at paragraph Nos.17 to 24 as under **:**
>
> > **"**17. In a judgment of a three-Judge Bench of this Court in *State of Haryana* v. *Rattan Singh* [(1977) 2 SCC 491], V.R. Krishna Iyer, J. set out the principles which govern disciplinary proceedings as follows: (SCC p. 493, para 4)

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[8] Writ Appeal No.1168 of 2025, decided on 30-06-2026

> "*4.* It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Evidence Act, 1872 may not apply. *All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility*. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. **The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal 4 (2022) 6 SCC 563 before a valid finding could be recorded.** The "residuum" rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. *The simple point is, was there **some** evidence or was there **no** evidence* — not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of *any evidence* in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is *some* evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground."

(emphasis in original and supplied)

These principles have been reiterated in subsequent decisions of this Court including *State of Rajasthan* v. *B.K.Meena* [(1996) 6 SCC 417]; *Krishnakali Tea Estate* v. *Akhil Bharatiya Chah Mazdoor Sangh* [(2004) 8 SCC 200; *Ajit Kumar Nag* v. *Indian Oil Corpn. Ltd.* [(2005) 7 SCC 764] and *CISF* v. *Abrar Ali* [(2017) 4 SCC 507].

18. In the course of the submissions, the respondents placed reliance on the decision in *Union of India* v. *Gyan Chand Chattar* [(2009) 12 SCC 78]. In that case, six charges were framed against the respondent. One of the charges was that he demanded a commission of 1% for paying the railway staff. The enquiry officer found all the six charges proved. The disciplinary authority agreed with those findings and imposed the punishment of reversion to a lower rank. Allowing the petition under Article 226 of the Constitution, the High Court observed that there was no evidence to hold that he was guilty of the charge of bribery since the witnesses only said that the motive/reason for not making the payment could be the expectation of a commission amount. The respondent placed reliance on the following passages from the decision: (SCC pp. 85 & 87, paras 21 & 31)

> **"*21.* Such a serious charge of corruption requires to be proved to the hilt as it brings both civil and criminal consequences upon the employee concerned. He would be liable to be prosecuted and would also be liable to suffer severest penalty awardable in such cases. Therefore, such a grave charge of quasi-criminal nature was required to be proved beyond the shadow of doubt and to the hilt. It cannot be proved on mere probabilities.**
>
> ***
>
> *31.* … wherein it has been held that the punishment should always be proportionate to the gravity of the misconduct. However, in a case of corruption, the only punishment is dismissal from service. Therefore, the charge of corruption must always be dealt with keeping in mind that it has both civil and criminal consequences."

19. The observations in para 21 of Gyan Chand Chattar case [Union of India v. Gyan Chand Chattar, (2009) 12 SCC 78] are not the ratio decidendi of the case. These observations were made while discussing the judgment of the High Court. The ratio of the judgment emerges in the subsequent passages of the judgment, where the test of relevant material and compliance with natural justice as laid down in Rattan Singh [State of Haryana v. Rattan Singh, (1977) 2 SCC 491] was reiterated: (Gyan Chand Chattar case [(2009) 12 SCC 78], SCC p. 88, paras 35-36)

> "*35.* … an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice. The charges should be specific, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively. Finding should not be perverse or unreasonable, nor the same should be based on conjectures and surmises. There is a distinction in proof and suspicion. Every act or omission on the part of the delinquent cannot be a misconduct.

> *36.* In fact, initiation of the enquiry against the respondent appears to be the outcome of anguish of superior officers as there had been an agitation by the railway staff demanding the payment of pay and allowances and they detained the train illegally and there has been too much hue and cry for several hours on the railway station. *The enquiry officer has taken into consideration the non-existing material and failed to consider the relevant material and finding of all facts recorded by him cannot be sustained in the eye of the law*."
>
> (emphasis supplied)
>
> On the charge of corruption, the Court observed in the above decision that there was no relevant material to sustain the conviction of the respondent since there was only hearsay evidence where the witnesses assumed that the motive for not paying the railway staff "could be" corruption. Therefore, the standard that was applied by the Court for determining the validity of the departmental proceedings was whether (*i*) there was relevant material for arriving at the finding; and (*ii*) the principles of natural justice were complied with.

20. In Karnataka Power Transmission Corpn. Ltd.v. C. Nagaraju [(2019) 10 SCC 367], this Court has held: (SCC p. 371, para 9)

> "9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are significantly distinct and different."

21. The Court also held that: (C. Nagaraju case [Karnataka Power Transmission Corpn. Ltd. v. C. Nagaraju, (2019) 10 SCC 367], SCC p. 372, para 13)

> "13. Having considered the submissions made on behalf of the appellant and Respondent 1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in the departmental inquiry is different from that produced during the criminal trial. The object of a departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a departmental inquiry is

> not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the enquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needed no interference by the High Court."

22. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not reappreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:

(*i*) the rules of natural justice have been complied with;

(*ii*) the finding of misconduct is based on some evidence;

(*iii*) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and

(*iv*) whether the findings of the disciplinary authority suffer from perversity; and

(*v*) the penalty is disproportionate to the proven misconduct.

23. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.

24. For these reasons, we allow the appeals and set aside the impugned judgment and order of the High Court of Karnataka at the Kalaburagi Bench dated 29-11-2017 in Umesh v. State of Karnataka [2017 SCC OnLine Kar 4973]. The petition instituted by the respondent under Article 226 of the

> Constitution shall stand dismissed. The finding of misconduct and the punishment of compulsory retirement are restored."

15. The Apex Court in **Umesh** (supra) observed that the recovery of tainted money established in the departmental enquiry may, by itself, be sufficient to sustain the finding of misconduct, notwithstanding the acquittal of the employee in the criminal case. The Apex Court held that in the exercise of judicial review, the court does not act as an appellate forum over the findings of the disciplinary authority. The Court does not re-appreciate the evidence on the basis of which the findings of misconduct has been arrived at in the course of the disciplinary enquiry and the Court in exercise of the judicial review must restrict its review to determine whether:

(i) the rules of natural justice have been complied with;

(ii) the finding of misconduct is based on some evidence;

(iii) the statutory rules governing the conduct of disciplinary enquiry have been observed; and

(iv) whether the findings of the disciplinary authority suffer from perversity; and

(v) the penalty is disproportionate to the proven misconduct.

16. Similarly in **Karnataka Power Transmission Corporation Limited vs C. Nagaraju and Another** reported in **(2019) 10 SCC 367**, the Supreme Court observed that the acquittal by Criminal Court does not automatically invalidate or bar disciplinary proceedings on the same allegations. The disciplinary authority is not bound by a criminal acquittal, where the evidence produced in the departmental enquiry is different from that produced at the criminal trial, since two proceedings differ in objective, procedure and standard of proof, (proof beyond reasonable doubt versus preponderance of probabilities). It was held that **M. Paul Anthony vs Bharat Gold Mines Limited** reported in **(1999) 3 SCC 679** and **G.M.Tank** (supra) - permitting the departmental action to be set aside on the strength of the acquittal - is attracted only where the evidence in both proceedings is identical and the Criminal Court has recorded an honourable acquittal on merits by wholly disbelieving the prosecution case.

17. In **Union of India and Others vs Gyan Chand Chattar** reported in **(2009) 12 SCC 78** which also was taken note by the Supreme Court in **Umesh**'s case, wherein it was

held that the departmental enquiry must be founded on specific, definite and clear charges supported by proper evidence; findings cannot rest on vague charges, hearsay conjecture or surmise. There is a distinction between suspicion and proof. Charges involving corruption, given their quasi-criminal character and civil/criminal consequences, must be proved "to the hilt". While corruption, once proved, warrants no sympathy and permits no punishment short of dismissal, an enquiry that fails to establish the charge with real evidence cannot sustain a major penalty.

18. In the instant case, the appellant cannot derive any benefit from the exception carved out by the Supreme Court in **G.M Tank, Ram Lal** and the other subsequent decisions. **The acquittal recorded by the Criminal Court was not founded upon a categorical finding that the prosecution case of demand and acceptance of illegal gratification was false. On the contrary, the acquittal rested on the benefit of doubt arising from certain contradictions in the trap evidence and the loan defence having been held probable, and not upon any categorical finding that the demand and acceptance of illegal gratification was false. In particular, weight was given to the admissions elicited from PW1 during his cross examination wherein he admitted that he had borrowed Rs.1,500 from the appellant and that the amount paid on the date of trap was towards the repayment of the said hand loan. On that basis the Criminal Court extended the benefit of doubt to the accused.**

19. The departmental enquiry, however, after considering the very same admissions, expressly rejected them. The enquiry officer held that the complainant's evidence in examination-in-chief and the complaint - Ex. P1 consistently established the demand and acceptance of illegal gratification, that the admissions made during cross-examination were an afterthought and appeared to have been made for extraneous reasons, and the defence of repayment of a hand loan was inherently improbable and unsupported by any independent material.

20. Consequently, the enquiry officer concluded that the amount received by the appellant constituted an illegal gratification with respect to the three pending applications. The enquiry findings are also supported by evidence relating to the trap proceedings. The complainant lodged a complaint before the Lokayukta alleging demand of Rs.1,500 as an illegal gratification. Pursuant thereto, the Lokayukta Police secured two independent panch witnesses, conducted the pre-trap formality

> by smearing three currency notes of Rs.500 each with phenolphthalein powder. The Lokayukta Police prepared the entrustment mahazar and entrusted the complainant to hand over the tainted currency only upon demand. The shadow witness accompanied the complainant. After the pre-arranged signal was given, the Lokayukta Police entered the office, recovered the tainted currency from the right pocket of the appellant's trousers, conducted the hand wash test which turned pink, and seized the relevant records. The chemical examination report confirmed the presence of phenolphthalein on the hand washes, the recovered currency notes and trousers worn by the appellant. **These circumstances were accepted by the enquiry officer as corroborative to the complainant's version and sufficient to establish misconduct on preponderance of probabilities."**

The Division Bench holds that if the criminal Court records clear acquittal on merits after completely disbelieving the prosecution case, it would be unjust and unfair to sustain the disciplinary punishment. It now becomes germane to notice what the other High Courts have held in identical circumstances.

12.4. The High Court of Calcutta in a judgment rendered on 19-05-2025 in the case of **ASIM KUMAR PAUL v. UNION OF INDIA**[9] has held as follows:

".... ....

> 12. It thus appears to us that the charges, the evidence, the witnesses and the circumstances in both the departmental enquiry and the criminal proceeding are identical or substantially similar. At his juncture, the moot question arises for our consideration is as to whether on account of such similarity, the finding of the enquiry authority, appellate authority, revisional authority as well as of the Tribunal in the impugned judgment can be allowed to be sustained following the acquittal of the writ petitioner/ original applicant in criminal appeal. At this juncture, if we look to the reported decision of **Maharana Pratap Singh (Supra),** we find that

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[9]**WP.CT 75 OF 2010**

the Hon'ble Supreme Court while deciding the said Civil Appeal framed four numbers of issues as reveals from paragraph no. 25 of the said reported decision. For better understanding we propose to quote paragraph 25 of the reported decision of **MaharanaPratap Singh** (***Supra***) in verbatim and the same is reproduced hereinbelow:

> "25. The issues for determination that emerge for decision are:
>
> (i) Whether due process was followed in dismissing the appellant from service and whether his dismissal from service is justified, on facts and in the circumstances, that have unfolded before us?
>
> (ii) Whether, in light of the facts, evidence, witnesses, and circumstances of the case, the charges in the criminal proceedings are substantially identical to those in the departmental proceedings, such that an acquittal in the criminal case would render the findings in the disciplinary proceedings vulnerable?
>
> (iii) Whether the impugned judgment, which allowed the appeal of the respondents and dismissed the writ petition of the appellant, deserves to be upheld?
>
> (iv) Whether the appellant is entitled to any relief, should the aforesaid questions be answered in his favour?"

....

14. Keeping in mind the proposition of law as decided in the case of **MaharanaPratap Singh (*Supra*)**, if we look to the factual aspects as involved in the instant writ petition, **it appears to us that the charges as framed against the delinquent in the enquiry proceeding are almost similar to the charges as framed in the criminal proceeding and the evidence and the witnesses and the circumstances of both the enquiry proceeding and criminal proceeding are either identical or substantially similar. We have also noticed that apart from the charge of mala fide and fraudulent act of the delinquent thereby attracting contravention of the Rule 3(1) (i), (ii) and (iii) of the said Rule, no other independent charge was framed in the said disciplinary proceeding alleging culpable negligence on the part of the writ petitioner in discharging his duty. It thus appears to us that on account of passing of the judgment of acquittal in the aforementioned criminal appeal the findings of the enquiry authority, appellate authority as well as the revisional authority cannot be allowed to stand."**

12.5. The High Court of Orissa in the case of **ABHAY BEHERA v. STATE OF ODISHA**[10] has held as follows:

"....   ....

4.4. Hon'ble Apex Court in Para-47 & 50 of the decision in the case of ***Maharana Pratap Singh*** has held as follows:-

> ***"****47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in* <u>*G. M. Tank*</u> *(supra), since reinforced by a decision of recent origin in* <u>*Ram Lal v. State of Rajasthan31*</u>*.*
>
> *xxx xxx xxx*
>
> 50. The judgment acquitting the appellant reveals that the prosecution "miserably failed to prove its case beyond reasonable doubt" as both the informant and PW-2 refused to identify the appellant in court. This discussion confirms that the appellant's acquittal was based not on mere technicalities. In <u>Ram Lal</u> (*supra*), this Court held that terms like "benefit of doubt" or "honourably acquitted" should not be treated as formalities. The Court's duty is to focus on the substance of the judgment, rather than the terminology used."

4.5. This Court in Para-20 of the decision in the case of ***Banshidhar Bariki*** has held as follows:-

> ***"20.*** *To substantiate the aforementioned charge, the inquiry officer, as has been stated above has examined the same set of witnesses, whose version has been clearly discarded by a judicial finding by the Court of Addl. Sessions Judge. The important aspect of this matter is the plea of alibi taken by the respondent, which has been established by him by cogent evidence and believed by*

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[10] W.P.(C) No.11239 decided on 12-05-2026

> *the trial court. If the plea of alibi is believed by the trial Court in the judgment dated 26.11.2018, which has attained the finality, the entire genesis of the case is washed away on facts. Therefore, it could be safely inferred that departmental proceedings and their conclusion are based on "no evidence". The learned Single Judge has rightly relied upon numerous judgments to un-justify the departmental action taken against the respondent. It is no gain saying that the judgment relied upon by the learned Single Judge is apt in the fact scenario of the present case. The eventual conclusion drawn by the learned Single Judge, setting aside the departmental action against the respondent cannot be faulted with on law as well as facts. Therefore, this is clearly not a case for interference by this Court".*

4.6. Reliance was also placed to a decision of this Court passed on 18.09.2025 in W.P.(C) No.27964 of 2024.

4.7. It is accordingly contended that the proceeding initiated in Gajapati District Proceeding No.14 of 2012 be quashed.

5. Mr. S. Das, learned Addl. Standing Counsel for the State on the other hand contended that since the proceeding is at the stage of the 2nd show cause if some time will be allowed the proceeding will be finalized in accordance with law.

5.**1**. It is also contended that since the factum of proof so required to be followed in a departmental proceeding is different from criminal proceeding, the order of acquittal passed in the criminal proceeding has got no binding effect with regard to conduct of the disciplinary proceeding.

5.**2**. It is accordingly contended that if two months' time will be allowed the proceeding will be disposed of.

6. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that the proceeding in question was initiated against the Petitioner vide Gajapati District Proceeding No.14 of 2012 *inter alia* with the following charges:-

> **"CHARGE**
>
> *Sri Abhay Behera, Ex.IIC R. Udayagiri PS, in Gajapati district now Inspector in Koraput district is charged with gross misconduct in that:-*

During his incumbency as IIC, R. Udayagiri P.S., in Gajapati district, Berhampur Vigilance PS Case No. 51 dt.30.11.10 u/s 13(2) r/w 13(1)(e) P.C. Act. 1988 has been registered. During investigation it was found that during his period of service from 1.1.2001 to 5,3.2010 he has acquired and possessed disproportionate assets in his name and in the name of his family members worth of ₹11,32,821.54.

He was found to have acquired movable properties such as Laptop, TV, Hero Honda Pleasure Motor Cycle, Computer, Inverter with batteries, Philips Stereo etc. and immovable properties relating to purchase of plots and construction of building as found during house search on 5.3.2010. He has not obtained any permission nor sent any intimation to his authority regarding acquisition of properties in his name and in the name of his family members as required u/s 21 and 21(3) of Odisha Govt. Servant's Conduct Rule, 1959.

That Sri Behera has not submitted any property statement to his authority during his service period as required under Rule 21 of Govt. Servant Conduct Rule 1959. As such, Sri Behera failed to maintain absolute integrity, devotion of duty, decorum of conduct and committed misconduct in violation of Rule 3 and Rule 21 of Odisha Govt. Servant's Conduct Rules, 1959.

He is therefore, directed to show cause by 31.10.2012 as to why he shall not be suitably dealt with in the event of the charges being held to be proved against him.

Any representation that he may wish to make in this regard will be duly considered by the authority competent to pass final order before passing such orders.

Director General of Police & Inspector General of Police, Odisha, Cuttack".

6.1. It is also found that Petitioner faced the criminal proceeding in Berhampur Vigilance P.S. Case No.51, dtd. 30.11.2010 corresponding to GR Case No.53 of 2010 (V) in the file of learned Special Judge, (Vigilance), Berhampur. In the said vigilance proceeding Petitioner was acquitted of the charges vide judgment dtd.30.01.2014 under Annexure-1.

6.2. Since the charges in both the proceeding are same and Petitioner has been acquitted in the criminal proceeding vide judgment under Annexure-1, placing reliance on the decisions as cited (supra), this Court is of the view that further continuance of the disciplinary proceeding is not to the interest of the Petitioner and will be an abuse of the process of Court. Not only that on the face of the submission of the enquiry report since 31.02.2014, the proceeding is yet to be disposed of."

12.6. The High Court of Patna in the case of **SUSHIL KUMAR SINGH v. THE STATE OF BIHAR**[11] has held as follows:

"…. …. ….

19. Nonetheless, this Court is cognizant of the settled position of law that mere acquittal in a criminal trial does not, ipso facto, entitle a delinquent employee to reinstatement, since the standard of proof and the nature of enquiry in a departmental proceeding are materially different from those governing a criminal trial. However, by appreciating the material facts and circumstances of the given case at hand, it is imperative to adduce the governing principles of law by way of the following judicial pronouncements.

…. …. ….

22. Answering the said question, and reaffirming the ratio in G.M. Tank (supra), the Supreme Court held, in substance, that while a mere acquittal in a criminal case does not by itself entitle an employee to have his dismissal set aside, where the charges, evidence, witnesses and circumstances in the departmental and criminal proceedings are identical or substantially similar, upholding a contrary finding of guilt in the departmental enquiry would be unjust, unfair and oppressive.

The Court further held that expressions such as "benefit of doubt" and "honourable acquittal" are not to be treated as mere formalities or labels — the duty of the Court is to look to the substance of the judgment of acquittal, and not merely to the terminology employed therein.

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[11] CWJC No.11480 of 2017 decided on 03-09-2026

The Supreme Court also held that failure on the part of the State to produce the complete departmental enquiry file, when specifically called upon to do so, attracts an adverse inference under Section 114 (g), of the Indian Evidence Act, 1872.

....

28. In view of the aforesaid facts and circumstances and the governing principles of law enunciated hereinabove, this Court finds it appropriate to hold that the enquiry purportedly conducted afresh, pursuant to the order dated 23.10.2006 (Annexure-3), was not, in substance, a fresh enquiry, but a mere continuation, in form, of the earlier vitiated proceeding, inasmuch as, no witness was examined afresh and the petitioner was denied any real opportunity of cross-examination.

Further, the departmental proceeding and the criminal prosecution arose out of the same occurrence and were founded on substantially overlapping factual allegations.

29. It is needless to state that the petitioner was acquitted in Sessions Trial No. 28 of 1999 by judgment dated 09.08.2016. The said acquittal, arising out of the same occurrence, is a relevant circumstance to be taken into account while examining the sustainability of the departmental action.

30. Having regard to the fact that the departmental proceeding and the criminal prosecution arose of the same occurrence, and, more importantly, that the fresh departmental enquiry was conducted without independently recording the evidence of the departmental witnesses and without according the Petitioner an effective opportunity of cross-examination, the impugned departmental actions cannot be sustained in law."

(Emphasis supplied at each instance)

In **RAM LAL v. STATE OF RAJASTHAN** the Apex Court held that **acquittal in a criminal case does not automatically nullify disciplinary proceedings**. An exception arises where the charges, evidence, witnesses and surrounding circumstances in the criminal trial and departmental enquiry are identical or substantially the same. If, after considering the entire prosecution evidence, the criminal Court finds that the prosecution has failed to establish the charge, the Court exercising judicial review may interfere with the disciplinary punishment where allowing it to stand would be **unjust, unfair and oppressive**. On facts, the disciplinary authority had ignored crucial evidence, including the original mark sheet and the Investigating Officer's evidence showing that there was no alteration in it. The departmental findings were therefore vitiated. Significantly, the Court held that expressions such as **"benefit of doubt" and "honourably acquitted" are not magic incantations**; the substance of the judgment of acquittal, rather than the terminology employed, must determine its effect.

In **MAHARANA PRATAP SINGH v. STATE OF BIHAR,** the Apex Court reiterated RAM LAL and G.M. TANK. While criminal acquittal ordinarily does not result in automatic setting aside of a dismissal imposed departmentally, the position changes where the **charges, evidence, witnesses and circumstances are identical or substantially similar**. In that situation, sustaining a contrary departmental finding may become unjust, unfair and oppressive. The Court found a close similarity between the principal departmental charge and the criminal accusation. The informant and another material witness had failed to identify the appellant in the criminal trial, resulting in an acquittal that was not merely technical. Similar evidentiary infirmities existed in the departmental enquiry. The non-production of the departmental file also justified an adverse inference. Consequently, the finding of guilt on charge No.1 was held unsustainable.

In **SRI CHIDANANDA v. THE UPALOKAYUKTA**, the Division Bench of the Karnataka High Court recognised the **limited exception** carved out in G.M. TANK, RAM LAL and MAHARANA PRATAP SINGH: where the criminal trial and departmental enquiry rest upon identical or substantially similar charges, witnesses, evidence and circumstances, and the criminal Court acquits the employee on merits after disbelieving the prosecution case, continuation of the departmental punishment may become unjust and oppressive, particularly when the enquiry contains **no additional or independent evidence**. At the same time, relying on STATE OF KARNATAKA V. UMESH, the Court emphasised that departmental proceedings are ordinarily independent and misconduct is tested on the **preponderance of probabilities**, not proof beyond reasonable doubt.

On the facts considered by the Division Bench, however, the exception was held inapplicable: the criminal acquittal arose from contradictions in the trap evidence and a probable hand-loan defence, whereas the enquiry officer independently evaluated the material and relied upon the trap proceedings, recovery of tainted currency and phenolphthalein evidence.

In **STATE OF KARNATAKA v. UMESH,** it states the general rule on the other side of the spectrum. **Criminal and departmental proceedings operate in different fields**, with different purposes and standards of proof. An acquittal therefore does not, by itself, disturb a departmental finding. Judicial review is not an appeal on facts, and the High Court cannot reappreciate departmental evidence merely because another view is possible. Its scrutiny is essentially confined to whether natural justice was followed, whether there was **some evidence**, whether the governing rules were observed, whether the findings suffer from perversity and whether the punishment is disproportionate. On the facts, the Apex Court restored the punishment of compulsory retirement, because the departmental findings were supported by evidence notwithstanding the criminal acquittal.

In **KARNATAKA POWER TRANSMISSION CORPORATION LTD. v. C. NAGARAJU,** the Apex Court held that an acquittal by a criminal Court neither bars nor automatically invalidates departmental proceedings. The two proceedings differ in **object,**

procedure, rules of evidence and standard of proof. More importantly, where the evidence produced in the departmental enquiry is different from that considered in the criminal trial, the disciplinary authority is not bound by the acquittal. The G.M. TANK/M. PAUL ANTHONY principle is attracted only in the exceptional situation, where the evidentiary foundation of both proceedings is substantially identical and the prosecution case has failed on merits.

In **UNION OF INDIA V. GYAN CHAND CHATTAR,** the Apex Court emphasised that a departmental enquiry must proceed upon **specific and definite charges and relevant evidence**. Findings cannot rest upon conjecture, surmise or mere suspicion. The enquiry must be fair and objective, and material evidence cannot be ignored. Although certain observations in the case referred to corruption charges being required to be proved "to the hilt", UMESH subsequently explained that those observations were not the ratio of GYAN CHAND CHATTAR. The controlling test remains whether there was relevant material supporting the finding and whether principles of natural justice were complied with.

In **ASIM KUMAR PAUL v. UNION OF INDIA,** following MAHARANA PRATAP SINGH, the Calcutta High Court found that the **charges, evidence, witnesses and circumstances** in the departmental and criminal proceedings were identical or substantially similar. There was no separate or independent departmental charge capable of surviving the criminal acquittal. Consequently, once the criminal appeal resulted in acquittal, the findings of the enquiry authority, appellate authority and revisional authority founded upon the same material could not be permitted to stand.

In **ABHAY BEHERA v. STATE OF ODISHA,** the Orissa High Court applied MAHARANA PRATAP SINGH to a departmental proceeding arising from allegations of disproportionate assets. The petitioner had already been acquitted in the corresponding vigilance prosecution. Since the charges in both proceedings were found to be the **same**, the Court held that further continuation of the disciplinary proceeding would not serve the petitioner's interest and would amount to an **abuse of process**, particularly when the proceeding had remained pending for an extraordinary period despite submission of the enquiry report.

In **SUSHIL KUMAR SINGH v. STATE OF BIHAR,** the Patna High Court reiterated that mere criminal acquittal does not *ipso facto* confer a right to reinstatement because departmental and criminal proceedings employ different standards of proof. Applying G.M. TANK, RAM LAL and MAHARANA PRATAP SINGH, however, it held that where both proceedings arise from the **same occurrence and substantially overlapping allegations**, the acquittal becomes a material circumstance in examining the sustainability of departmental action. The case had an additional infirmity: the purported fresh departmental enquiry was not genuinely fresh, since witnesses were not examined afresh and the employee was denied an effective opportunity of cross-examination. The departmental action was therefore held unsustainable.

COLLECTIVE RATIO:

13. **On a conspectus of the judgments quoted hereinabove, what unmistakably emerges is that an acquittal in a criminal prosecution does not, *ipso facto*, wash away the penalty imposed in a departmental proceeding. Quashment of a departmental penalty cannot be an automatic sequel to an order of acquittal. Much would depend upon the facts obtaining in each case and, more particularly, upon whether the charge, the substratum of allegations, the evidence, the witnesses and the documents in the criminal trial and the departmental enquiry are the same or substantially the same. It is only when the two proceedings travel on substantially identical terrain that an acquittal in the**

criminal prosecution may cast its shadow upon the sustainability of the departmental penalty.

14. **Equally, where the acquittal is on merits, the mere phraseology employed by the criminal Court—whether the accused is acquitted by extending the "benefit of doubt" or because the prosecution failed to establish guilt "beyond reasonable doubt"—cannot, by itself, become the determinative factor for sustaining or setting aside a departmental penalty. The substance of the acquittal must prevail over its semantics. The Court must look beyond the label and examine the evidence, the witnesses and the foundation upon which both proceedings rested. The issue, therefore, must necessarily turn upon the peculiar facts of each case.**

15. In the case at hand, the criminal prosecution marshalled as many as **22 witnesses**. Of them, PW-1 was the complainant, PW-2 the shadow witness and PW-22 the Investigating Officer. The departmental enquiry did not examine all the 22 witnesses; it examined these three pivotal witnesses. What assumes significance is that, barring the Investigating Officer, neither the complainant nor the shadow witness supported the prosecution. They did not support the prosecution in the criminal trial; neither did they lend

support to the Department in the departmental enquiry. Thus, the very witnesses who constituted the fulcrum of the allegation failed to sustain it in either proceeding.

16. The position that emerges is, therefore, unmistakable. The criminal prosecution and the departmental enquiry rested upon the **same charge of demand and acceptance, the same foundational facts, substantially the same evidence, the same material witnesses and the same documents**. Yet, despite the collapse of the prosecution on that very evidentiary foundation, the departmental proceeding culminated in the extreme penalty of compulsory retirement, accompanied by permanent withholding of **25% of the pension**. **The consequence was twofold and severe - the petitioner was prematurely divested of his employment and thereafter visited with a permanent diminution of his pension.**

17. When the facts obtaining in the case at hand are juxtaposed with the principles enunciated by the Apex Court, the Division Bench of this Court and the Division Benches of the other High Courts noticed hereinabove, the conclusion admits of little ambiguity. The penalty imposed upon the petitioner cannot be permitted to survive. To sustain it, despite the collapse of the very evidentiary edifice upon which both proceedings were founded,

would be to preserve a punishment after its foundation has disappeared. Such a consequence, as cautioned by the Apex Court, would render the continuance of the penalty **unjust and oppressive in the eye of law**. The penalty, therefore, deserves obliteration.

18. For the aforesaid reasons, WE pass the following:

ORDER

(i) The Writ Petition is **allowed**.

(ii) The order dated **28-09-2022**, passed by the Karnataka State Administrative Tribunal, is hereby **quashed**. Consequently, the order dated **23-07-2019**, imposing penalty upon the petitioner, also stands **quashed**.

(iii) The petitioner shall be entitled to all consequential service and retiral benefits flowing from the quashment of the order dated 23-07-2019. The period between the date of compulsory retirement and the date on which the petitioner would have attained the age of superannuation shall be reckoned as **service for the purpose of computation of qualifying service and all consequential retiral benefits**. The petitioner shall, however, **not be entitled to arrears of salary** for the said period.

(iv) Consequently, **Application No.10346 of 2019**, preferred by the petitioner before the Karnataka State Administrative Tribunal, stands **allowed**.

(v) The respondents shall calculate and disburse all consequential monetary and retiral benefits flowing from this order **within three months from the date of receipt of a copy of this order**.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Sd/-
(HEMA KULKARNI)
JUDGE

NVJ