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IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

WRIT PETITION NO. 100268 OF 2024 (S-KAT)

BETWEEN

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
GOVERNMENT OF KARNATAKA,
REVENUE DEPARTMENT (SERVICE-2),
M. S. BUILDING, DR. AMBEDKAR VEEDHI,
BENGALURU-560001.

2. THE DEPUTY COMMISSIONER,
OFFICE OF THE DEPUTY COMMISSIONER,
BAGALKOT, DIST. BAGALKOT-587103.

...PETITIONERS

(BY SRI. G. K. HIREGOUDAR, GOVT. ADVOCATE)

AND

1. SRI. SHIVANAGOUDA VASANAD,
S/O. GOVINDAPPA VASANAD,
AGE: 41 YEARS,
OCC: VILLAGE ACCOUNTANT,

PRESENTLY WORKING AT: KELAVADI VILLAGE,
TQ. BADAMI, DIST. BAGALKOT-587103.

2. THE LOKAYUKTA,
STATE OF KARNATAKA,
REP. BY REGISTRAR,
M. S. BUILDING,
DR. AMBEDKAR ROAD,
BENGALURU-560001.

...RESPONDENTS

(BY SRI. P. P. HEGDE, SENIOR COUNSEL FOR
SRI. VIJAY K. NAIK, ADV. FOR R1;
SRI. ANIL KALE, ADV. FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED 12.04.2023 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI IN APPLICATION NO.12621/2020 (ANNEXURE-C TO THE WRIT PETITION) AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 16.09.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

CAV ORDER

(PER: THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL)

This writ petition is filed by the petitioner-State challenging the order dated 12.04.2023 passed by the Karnataka State Administrative Tribunal, Belagavi (hereinafter referred to as the 'KSAT', for short) in A.No.12621/2020.

2. The brief facts leading to the filing of this petition are that:

The respondent No.1 was working at Belavalkoppa village as a Village Accountant in the year 2011. A complaint was filed against him by one Sri. Vijaykumar Hanamappa to the Lokayukta Police alleging that respondent No.1 had demanded an amount of Rs. 2,500/- as a gratification for mutation of the complainant's name in the revenue records. Pursuant to the said complaint, a trap was organised by the Lokayukta Police and the respondent No.1 was caught with bribe money of Rs. 2,500/- in his shirt pocket. A departmental enquiry was held by the respondent No.2 herein and an enquiry report was submitted on 24.10.2019. The petitioner No.1 based on the recommendation of the respondent

No.2 order dated 21.10.2020 was passed, wherein the respondent No. 1 was ordered with a penalty of compulsory retirement with immediate effect. Being aggrieved, the respondent No.1 approached the KSAT seeking to quash the order dated 21.10.2020. The KSAT after considering the contentions and material available on record, allowed the application by setting aside the order dated 21.10.2020. Being aggrieved by the order of the KSAT, the petitioner-State has filed this petition.

3. Sri. Girish Hiregoudar, learned Government Advocate appearing for the petitioner-State submits that the KSAT without considering the difference between the scope of criminal proceedings and a departmental enquiry has proceeded to allow the application merely on the ground that respondent No.1 was acquitted in the criminal case i.e S.C.No.15/2012. It is further submitted that the standard of proof operating in a criminal case is that of 'beyond reasonable doubt' whereas in case of a departmental enquiry, it is a 'preponderance of probabilities', and the same was not considered by the KSAT while allowing the application. It is also submitted that the acquittal of respondent

No.1 is merely on a technical grounds and the same is not an honourable acquittal, hence, the same cannot be a basis to interfere with the order of penalty in a departmental enquiry. It is contended that P.W.2 and P.W.3 in the departmental enquiry, who have also been examined in the criminal proceedings supported the case against respondent No. 1, however, the evidence of P.W.3, who is P.W.2 before the criminal proceedings is declared as hostile and unreliable. Hence, the evidence on record in the departmental enquiry is required to be looked into independently. It is further contended that there is sufficient evidence against respondent No.1 in the departmental enquiry which has not been appreciated by the KSAT. It is also contended that the KSAT exceeded its jurisdiction in appreciating the evidence and recorded incorrect finding which calls for interference in this petition. In support of his contentions, he placed reliance on the following decisions:

1. ***Pravin Kumar v Union of India and others***[1]

2. ***State of Karnataka and others v Umesh***[2]

[1] (2020) 9 SCC 471
[2] (2022) 6 SCC 563

3. ***Karnataka Power Transmission Corporation Limited v C. Nagaraju and Another***[3]

4. ***Deputy General Manager (Appellate Authority) and Others v Ajai Kumar Srivastava***[4]

5. ***Deputy Inspector General of Police and another v S. Samuthiram***[5]

6. ***Director General of Police, Railway Protection Force and others v Rajendra Kumar Dubey***[6]

7. ***Shashi Bhushan Prasad v Inspector General Centrla Industrial Security Force and Others***[7]

4. Sri. P.P. Hegde, learned Senior Counsel appearing for Sri. Vijay K. Naik, learned counsel for respondent No.1, supports the impugned order and submits that the KSAT has rightly allowed the application after considering the facts and evidence on hand. It is further submitted that the KSAT has rightly observed that, mere possession and recovery of currency notes from the accused without proof of demand will not bring home the offence under Section 7 of the Prevention of the Corruption

[3] (2019) 10 SCC 367
[4] (2021) 2 SCC 612
[5] (2013) 1 SCC 598
[6] (2021) 14 SCC 735
[7] (2019) 7 SCC 797

Act, 1988. It is also submitted that the KSAT has rightly appreciated the law on point that where there are same set of charges and same set of evidence in both criminal trial and departmental proceedings, then acquittal in the criminal proceedings will be a bar to the departmental proceedings and also exonerate the delinquent employee from the departmental proceedings. It is submitted that the Enquiry Officer in the departmental enquiry has not considered the evidence of the complainant in the cross-examination wherein he has deposed that there was no demand and acceptance of money by respondent No.1 and without any basis has proceeded to presume that P.W.1-complainant was merely attempting to safeguard the interests of respondent No.1. It is further submitted that total 10 witnesses have been examined in the criminal proceedings, whereas, only 4 amongst them have been examined by the Enquiry Officer in the departmental enquiry and they have also not supported the case of the employer. In support of his contention, he placed reliance on the following decisions:

1. ***S. Bhaskar Reddy & Another v Superintendent of Police and Another***[8]
2. ***Ram Lal v State of Rajasthan***[9]
3. ***Maharana Pratap Singh v State of Bihar and Others***[10]
4. ***Ebrahim Aboobakar v Custodian of Evacuee Property***[11]
5. ***Aejaz Hussain v State of Karnataka***[12]
6. ***P V Rudrappa v State of Karnataka***[13]
7. ***Principal Secretary to Government Department of Revenue v Somashekar***[14]
8. ***The State of Karnataka and Ors v N.Gangaraj***[15]

Hence, he seeks to dismiss the petition.

5. Sri. Anil Kale, learned counsel appearing for respondent No.2 submits that the charges and evidence in both the proceedings are different and the finding of the KSAT is perverse to the said effect. It is further submitted that the

[8] (2015) 2 SCC 365
[9] (2024) 1 SCC 175
[10] 2025 SCC Online SC 890
[11] (1952) 1 SCC 798
[12] 2020 SCC Online KAR 5552
[13] 2024 SCC Online Kar 10628
[14] 2025 SCC Online Kar 4560
[15] Civil Appeal No. 8071 of 2014 dated 14.02.2020

complainant has supported the case in his examination-in-chief and after much delay, cross-examination was conducted where he, slightly deviated from his version in the examination-in-chief. However, other witnesses in the enquiry have fully supported the case and if the entire evidence on record is appreciated, the charges levelled against the DGO/employee are proved. Hence, he seeks to allow the petition.

6. We have heard the learned Government Advocate for the petitioner, learned Senior Counsel for respondent No.1, learned counsel for respondent No.2 and meticulously perused the material available on record. We have given our anxious considerations to the submissions advanced.

7. The points that arise for our consideration in this petition are:

> *"1.Whether the finding recorded with regard to misconduct in a disciplinary enquiry is sustainable under law and the interference by the KSAT warrants any interference?*
>
> *2. Whether the facts, charges and evidence are identical or similar in a criminal proceedings and if yes, whether the acquittal in criminal proceedings*

has a bearing on imposition of penalty in the departmental enquiry?''

8. The above points are considered together and answered as follows:

a) The respondent No.1 was working at Belavalkoppa village as a Village Accountant in the year 2011. A complaint was filed against him by one Sri.Vijaykumar Hanamappa to the Lokayukta Police alleging that respondent No.1 had demanded an amount of Rs.2,500/- as gratification for mutation of the applicant's name in the revenue records. Pursuant to the said complaint, a crime is registered in Crime No.16/2011 for the offences punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'PC Act', for short). The matter was taken up for investigation on 02.11.2011, wherein, a trap was organised by the Lokayukta Police and respondent No.1 was caught in possession of tainted cash. After completion of the investigation, charge sheet was filed in Special Case No.15/2012 before the Principal District and Sessions

Judge, Bagalkot (hereinafter referred to as the 'Sessions Court', for short) for offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act.

b) The petitioner vide order dated 08.11.2012 initiated disciplinary proceedings against respondent No.1 by entrusting the same to respondent No.2. The Enquiry Officer framed the Article of Charges against respondent No.1 for committing misconduct as enumerated under Rule 3(1) (i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966 (hereinafter referred to as the 'Conduct Rules', for short). The Disciplinary Authority examined PW.1 to PW.4, got marked Exs.P.1 to P.11 and delinquent Government Official-respondent No.1 examined himself as DW.1 and another witness as DW.2 and got marked Exs.D.1 to D.3. After detailed enquiry, the Enquiry Officer submitted report recording the finding that respondent No.1 demanded and accepted illegal gratification of a sum of Rs.2,500/- from the complainant and respondent No.1 failed to offer satisfactory explanation for possession of tainted cash of Rs.2,500/-, thereby, is guilty of misconduct

within the purview of Rule 3(1) (i) to (iii) of the Conduct Rules and charges are proved. The petitioner received the report of enquiry and the recommendation of respondent No.2. The petitioner issued second show cause notice to respondent No.1. The respondent No.1 submitted reply to the said show cause notice. The disciplinary authority examined the enquiry report, evidence on record, explanation offered by respondent No.1 and passed an order of imposing punishment of compulsory retirement.

c) The Sessions Court in Spl.C.No.15/2012 vide judgment dated 06.05.2021 acquitted respondent No.1 for the charged offences under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act.

d) It would be useful to consider exposition of law laid down by the Hon'ble Supreme Court and this Court, as under:

(i) In the case of ***State of Karnataka v. Umesh,***

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

17. *In a judgment of a three-Judge Bench of this Court in State of Haryana v. Rattan Singh [State of Haryana v. Rattan Singh, (1977) 2 SCC 491 : 1977 SCC (L&S) 298 : (1977) 1 SLR 750] , V.R. Krishna Iyer, J. set out the principles which govern disciplinary proceedings as follows : (SCC p. 493, para 4)*

"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 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 [State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417 : 1996 SCC (L&S) 1455] ; Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh [Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh, (2004) 8 SCC 200 : 2004 SCC (L&S) 1067] ; Ajit Kumar Nag v. Indian Oil Corpn. Ltd. [Ajit Kumar Nag v. Indian Oil Corpn. Ltd., (2005) 7 SCC 764 : 2005 SCC (L&S) 1020] and CISF v. Abrar Ali [CISF v. Abrar Ali, (2017) 4 SCC 507 : (2018) 1 SCC (L&S) 310] .

***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. [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423 : (2020) 1 SCC (L&S) 547; Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806; B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80; R.S. Saini v. State of Punjab, (1999) 8 SCC 90 : 1999 SCC (L&S) 1424 and CISF v. Abrar Ali, (2017) 4 SCC 507 : (2018) 1 SCC (L&S) 310]

(ii) In the case of ***Deputy General Manager (Appellate Authority) and Others v. Ajai Kumar Srivastava***

22. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in State of T.N. v. T.V. Venugopalan [State of T.N. v. T.V. Venugopalan, (1994) 6 SCC 302 : 1994 SCC (L&S) 1385] and later in State of T.N. v. A. Rajapandian [State of T.N. v. A. Rajapandian, (1995) 1 SCC 216 : 1995 SCC (L&S) 292] and further examined by the three-Judge Bench of this Court in B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] wherein it has been held as under: (B.C. Chaturvedi case [B.C.

Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] , SCC pp. 759-60, para 13)

> *"13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal. In Union of India v. H.C. Goel [Union of India v. H.C. Goel, (1964) 4 SCR 718 : AIR 1964 SC 364] this Court held at SCR p. 728 (AIR p. 369, para 20) that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."*

23. *It has been consistently followed in the later decision of this Court in H.P. SEB v. Mahesh Dahiya [H.P. SEB v. Mahesh Dahiya, (2017) 1 SCC 768 : (2017) 1 SCC (L&S) 297] and recently by the three-Judge Bench of this Court in Pravin Kumar v. Union of India [Pravin Kumar v. Union of India, (2020) 9 SCC 471 : (2021) 1 SCC (L&S) 103] .*

24. *It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the*

mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

25. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the court is to examine and determine:

(i) whether the enquiry was held by the competent authority;

(ii) whether rules of natural justice are complied with;

(iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.

(iii) In the case of ***Inspector General of Police v. S. Samuthiram***

Honourable ***acquittal***

24. *The meaning of the expression "honourable acquittal" came up for consideration before this Court in RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the*

Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

25. *In R.P. Kapur v. Union of India [AIR 1964 SC 787] it was held that even in the case of acquittal, departmental proceedings may follow where the acquittal is other than honourable. In State of Assam v. Raghava Rajgopalachari [1972 SLR 44 (SC)] this Court quoted with approval the views expressed by Lord Williams, J. in Robert Stuart Wauchope v. Emperor [ILR (1934) 61 Cal 168] which is as follows : (Raghava case [1972 SLR 44 (SC)] , SLR p. 47, para 8)*

> *"8. … 'The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extrajudicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further, we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what government authorities term "honourably acquitted".'" (Robert Stuart case [ILR (1934) 61 Cal 168] , ILR pp. 188-89)"*

26. *As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.*

(iv) In the case of ***Shashi Bhushan Prasad v. CISF***

17. *The scope of departmental enquiry and judicial proceedings and the effect of acquittal by a criminal court has been examined by a three-Judge Bench of this Court in A.P. SRTC v. Mohd. Yousuf Miya [A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699 : 1997 SCC (L&S) 548] . The relevant paragraph is as under: (SCC pp. 704-05, para 8)*

> *"8. … The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal*

prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public (sic duty), as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Evidence Act. Converse is the case of departmental enquiry. The enquiry in a departmental proceeding relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. The enquiry in the

departmental proceedings relates to the conduct of the delinquent officer and proof in that behalf is not as high as in an offence in criminal charge. It is seen that invariably the departmental enquiry has to be conducted expeditiously so as to effectuate efficiency in public administration and the criminal trial will take its own course. The nature of evidence in criminal trial is entirely different from the departmental proceedings. In the former, prosecution is to prove its case beyond reasonable doubt on the touchstone of human conduct. The standard of proof in the departmental proceedings is not the same as of the criminal trial. The evidence also is different from the standard point of the Evidence Act. The evidence required in the departmental enquiry is not regulated by the Evidence Act. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances. In this case, we have seen that the charge is failure to anticipate the accident and prevention thereof. It has nothing to do with the culpability of the offence under Sections 304-A and 338 IPC. Under these circumstances, the High Court was not right in staying the proceedings."

(emphasis supplied)

18. *The exposition has been further affirmed by a three-Judge Bench of this Court in Ajit Kumar Nag v. Indian Oil Corpn. Ltd. [Ajit Kumar Nag v. Indian Oil Corpn. Ltd., (2005) 7 SCC 764 : 2005 SCC (L&S) 1020] This Court held as under: (SCC p. 776, para 11)*

"11. As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability". Acquittal of the appellant by a Judicial Magistrate, therefore, does

> *not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order [Ajit Kumar Nag v. Indian Oil Corpn. Ltd., 2004 SCC OnLine Cal 59 : (2004) 4 LLN 512] dismissing him from service deserves to be quashed and set aside."*
>
> *(emphasis supplied)*

19. *We are in full agreement with the exposition of law laid down by this Court and it is fairly well settled that two proceedings criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on an offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. Even the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused beyond reasonable doubt, he cannot be convicted by a court of law whereas in the departmental enquiry, penalty can be imposed on the delinquent on a finding recorded on the basis of "preponderance of probability". Acquittal by the court of competent jurisdiction in a judicial proceeding does not ipso facto absolve the delinquent from the liability under the disciplinary jurisdiction of the authority. This what has been considered by the High Court in the impugned judgment [Shashi Bhusan Prasad v. CISF, 2008 SCC OnLine Ori 544 : 2008 Lab IC 3733] in detail and needs no interference by this Court.*

(v) In the case of ***Karnataka Power Transmission Corporation Limited v C. Nagaraju and Another***

> ***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 significantly distinct and different. [State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417 : 1996 SCC (L&S) 1455]*
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> ***10.*** *As the High Court set aside the order of dismissal on the basis of the judgments of this Court in M. Paul Anthony [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810] and G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , it is necessary to examine whether the said judgments are applicable to the facts of this case. Simultaneous continuance of departmental proceedings and proceedings in a criminal case on the same set of facts was the point considered by this Court in M. Paul Anthony case [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810] . This Court was of the opinion that departmental proceedings and proceedings in a criminal case can proceed*

simultaneously as there is no bar. However, it is desirable to stay departmental inquiry till conclusion of the criminal case if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact. On the facts of the said case, it was found that the criminal case and the departmental proceedings were based on identical set of facts and the evidence before the criminal court and the departmental inquiry was the same. Further, in the said case the departmental inquiry was conducted ex parte. In such circumstances, this Court held that the ex parte departmental proceedings cannot be permitted to stand in view of the acquittal of the delinquent by the criminal court on the same set of facts and evidence. The said judgment is not applicable to the facts of this case. In the present case, the prosecution witnesses turned hostile in the criminal trial against Respondent 1. He was acquitted by the criminal court on the ground that the prosecution could not produce any credible evidence to prove the charge. On the other hand, the complainant and the other witnesses appeared before the inquiry officer and deposed against Respondent 1. The evidence available in the departmental inquiry is completely different from that led by the prosecution in criminal trial.

11. *Reliance was placed by the High Court on a judgment of this Court in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] whereby the writ petition filed by Respondent 1 was allowed. In the said case, the delinquent officer was charged for an offence punishable under Section 5(1)(e) read with Section 5(2) of the PC Act, 1988. He was honourably acquitted by the criminal court as the prosecution failed to prove the charge. Thereafter, a departmental inquiry was conducted and he was dismissed from service. The order of dismissal was upheld [G.M. Tank v. State of Gujarat, 2003 SCC OnLine Guj 487] by the High Court. In the appeal*

filed by the delinquent officer, this Court was of the opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the criminal court and the departmental proceedings being exactly the same, this Court held that the acquittal of the employee by a criminal court has to be given due weight by the disciplinary authority. On the basis that the evidence in both the criminal trial and departmental inquiry is the same, the order of dismissal of the appellant therein was set aside. As stated earlier, the facts of this case are entirely different. The acquittal of Respondent 1 was due to non-availability of any evidence before the criminal court. The order of dismissal was on the basis of a report of the inquiry officer before whom there was ample evidence against Respondent 1.

(vi) The Hon'ble Supreme Court in the case of ***PRAVEEN KUMAR v. UNION OF INDIA*** at para 25, 26 and 28, in the case of ***Director General of Police, Railway Protection Force and others v. Rajendra Kumar Dubey*** at Para 21 held the scope of the department enquiry vis-a-vis criminal proceedings and the scope of interference by the Constitutional Courts.

(vii) In the case of ***Maharana Pratap v State of Bihar***

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"

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.

***(viii) Ram Lal v. State of Rajasthan*, (2024) 1 SCC 175**

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.*

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

30. *We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] .*

(ix) In the case of ***G.M. Tank v. State of Gujarat***[16]

30. *The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of*

[16] *(2006) 5 SCC 446*

charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

31. *In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings*

challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.

(x) In the case of ***State of Rajasthan v. Heem Singh***[17]

J. The effect of an acquittal

38. *I the present case, we have an acquittal in a criminal trial on a charge of murder. The judgment of the Sessions Court is a reflection of the vagaries of the administration of criminal justice. The judgment contains a litany of hostile witnesses, and of the star witness resiling from his statements. Our precedents indicate that acquittal in a criminal trial in such circumstances does not conclude a disciplinary enquiry. In Southern Railway Officers Assn. v. Union of India [Southern Railway Officers Assn. v. Union of India, (2009) 9 SCC 24 : (2009) 2 SCC (L&S) 552] , this Court held : (SCC p. 40, para 37)*

> *"37. Acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority. The High Court did not say that the said fact had not been taken into consideration. The revisional authority did so. It is now a well-settled principle of law that the order of dismissal can be passed even if the delinquent official had been acquitted of the criminal charge."*

(emphasis supplied)

39. *In State v. S.Samuthiram [State v. S. Samuthiram, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] , a two-Judge Bench of this Court held that unless the accused has an "honourable acquittal" in their criminal trial, as opposed to an acquittal due to witnesses turning*

[17] (2021) 12 SCC 569

hostile or for technical reasons, the acquittal shall not affect the decision in the disciplinary proceedings and lead to automatic reinstatement. But the penal statutes governing substance or procedure do not allude to an "honourable acquittal". Noticing this, the Court observed : (SCC pp. 609-10, paras 24-26)

"Honourable acquittal

24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in RBI v. Bhopal Singh Panchal [RBI v. Bhopal Singh Panchal, (1994) 1 SCC 541 : 1994 SCC (L&S) 594] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

25. In R.P. Kapur v. Union of India [R.P. Kapur v. Union of India, AIR 1964 SC 787] it was held that even in the case of acquittal, departmental proceedings may follow where the acquittal is other

than honourable. In State of Assam v. Raghava Rajgopalachari [State of Assam v. Raghava Rajgopalachari, 1972 SLR 44 (SC)] this Court quoted with approval the views expressed by Lord Williams, J. in Robert Stuart Wauchope v. Emperor [Robert Stuart Wauchope v. Emperor, 1933 SCC OnLine Cal 369 : ILR (1934) 61 Cal 168] which is as follows : (Raghava case [State of Assam v. Raghava Rajgopalachari, 1972 SLR 44 (SC)] , SLR p. 47, para 8)

'8. … The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra-judicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further, we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what government authorities term "honourably acquitted".' (Robert Stuart case [Robert Stuart Wauchope v. Emperor, 1933 SCC OnLine Cal 369 : ILR (1934) 61 Cal 168] , ILR pp. 188-89)

26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the

employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so."

(emphasis supplied)

(xi) In the case of ***S. Bhaskar Reddy & Another v Superintendent of Police and Another*** the Hon'ble Supreme Court at para 20 to 22 reiterated law laid

down in the case of ***S. Samuthiram, Captain M.Paul Anthony and G.M.Tank***

e) The KSAT interfered with the order of imposition of penalty of compulsory retirement mainly on three grounds. Firstly, the KSAT has recorded the finding with regard to the evidence adduced in the departmental enquiry and ventured to re-appreciate the evidence which in our considered view is impermissible unless the finding of the departmental enquiry is without following the principles of natural justice, the finding of misconduct is without any evidence, the statutory rule governing the conduct of disciplinary enquiry has not been observed, the finding of the disciplinary authority is perverse and penalty imposed is disproportionate to the proven misconduct. The KSAT without even looking into the oral and documentary evidence in its entirety came to an incorrect conclusion that the Enquiry Officer has not appreciated the evidence of PWs.1 to 4 in its proper perspective and further that the demand and acceptance is not proved. In our considered view, such a finding of the KSAT was uncalled for as it

would amount to the KSAT sitting as an Appellate Authority over the proceedings of departmental enquiry, which is impermissible. The KSAT has wrongfully recorded the finding that PW.3 has admitted that he was not present at the time of the alleged demand and acceptance of the money and further that he has not heard conversation with regard to the demand and acceptance of money. The said finding of the KSAT runs contrary to the evidence on record. It is the case of the employer that the complainant files a complaint with the respondent No.2 alleging that, to do the official favour, the employee has initially demanded Rs.4,000/- and later he scaled down to Rs.2,500/-. Based on such a written complaint, which is marked as Ex.P.1 and which has been admitted by the complainant in his examination-in-chief, the PW.1 in his examination-in-chief during the enquiry clearly deposed what has been stated in the complaint at Ex.P.1 and further deposed that as per the plan, complainant-PW.1 and PW.3 entered the room and handed over Rs.2,500/- as demanded by the employee. There is clear evidence with regard to the procedure followed by the Investigating Officer with regard

to pre-trap procedure. PW.3, who is a pancha witness fully supported the case of the employer that he heard the conversation of PW.1 and the employee that as per the demand of the employee, PW.1 had brought Rs.2,500/- which he had handed over to the employee and he received the said amount, counted the amount with both hands and put it in his shirt pocket and immediately after the signal shown by PW.3, PW.2 and the Investigating Officer entered the room and conducted the trap proceeding by drawing the Mahazar.

f) The oral evidence of PW.1 and PW.3 when compared with the complaint at Ex.P.1 and Mahazars drawn during pre-trap and post-trap clearly demonstrate that the employee has demanded illegal gratification from PW.1 to do the official favour, accepted the illegal gratification and that the Investigating Officer has conducted the trap procedure in accordance with law. There is sufficient evidence on record to come to the conclusion that the trap procedure conducted by the Investigating Officer is in accordance with law and the employer in order to prove the charges

levelled against the employee has led oral and documentary evidence in the departmental proceedings, which are sufficient to come to the conclusion that the charges levelled against the employee are proved. The KSAT has made a feeble attempt to make a distinction with regard to the examination-in-chief of PW.1 and cross-examination of PW.1 by recording the finding that there is inconsistency. In our considered view, the Enquiry Officer has clearly recorded his finding in the Enquiry Report with regard to the minor inconsistencies by comparing the other evidence on record. We fully agree with the finding recorded in the departmental proceedings with regard to the appreciation of evidence on record. The KSAT has failed to keep in mind that the standard of proof required in the departmental proceedings is that of preponderance of probabilities. The evidence on record when read in its entirety, it can be fairly said that the charges levelled against the employee has been proved by the employer by leading legally acceptable evidence. The perverse finding recorded by the KSAT with regard to the appreciation of evidence is required to be interfered in these proceedings.

g) It is worth to be noticed that PW.1 has not denied the complaint lodged by him at Ex.P.1, his signature and that the official work was pending with the employee. Further, the Enquiry Officer has recorded the finding that there is substantial gap between the examination-in-chief of PW.1 and his cross-examination. The Enquiry Officer has recorded further finding that in cross-examination, the complainant has made some attempt to protect the employee by stating that, it was DW.2, who had made the demand for illegal gratification. The evidence of PW.3, examination-in-chief of PW.1 and evidence of PW.4 is read together and compared with the documentary evidence on record and by which we can come to a definite conclusion that PW.1-complainant was won over by the employee during the departmental proceedings which has been rightly appreciated by the Enquiry Officer and recorded the detailed finding.

h) The employee has made an attempt to overcome the evidence of PW.3 by putting number of suggestions during the cross-examination, which has been referred to by the

Enquiry Officer at para 31 to 34 of the enquiry report. The evidence of PW.3 is consistent and nothing was elicited during the cross-examination. The Enquiry Officer has rightly appreciated the evidence on record and recorded a clear finding that charges levelled against the employee are proved and the said finding ought not to have been interfered by the KSAT without any justifiable reason.

i) Secondly, the KSAT has recorded in its reasons that the reply of the employee submitted to the second show-cause-notice was not considered. We have perused the impugned order of penalty which clearly indicates that the Disciplinary Authority has considered the enquiry report, evidence on record, explanation of the employee and has come to a conclusion that the objections are not satisfactory and accepted the finding and imposed the punishment of compulsory retirement. It is trite law that the Disciplinary Authority is not expected to assign detailed reasons to each of the objections raised by the employee. The impugned order clearly indicates that the Disciplinary Authority has applied his mind and imposed the penalty by

overruling the objections, which does not call for any interference.

j) Thirdly, the KSAT has interfered with the finding of the departmental enquiry and the order of penalty on the ground that the employee has been acquitted in the criminal proceedings. In our considered view, the KSAT has erred in recording the said finding without considering the fact that the charges levelled against the employee in the criminal proceedings and the departmental enquiry are distinct. Furthermore, even the evidence in both the proceedings is different. The KSAT has failed to appreciate that the standard of proof required in the departmental proceedings is that of preponderance of probabilities and in the criminal trial, the prosecution is required to prove the case beyond reasonable doubt. In the case on hand, we have already recorded the finding with regard to the evidence recorded in the departmental proceedings that there is sufficient evidence to uphold the order of punishment. It is to be noticed that the charges in the departmental proceedings and the criminal proceedings are

different and for the ready reference, they are extracted herein below:

Charge in the Departmental Proceedings	***Charge in the Criminal Proceedings***
That, you Sri Shivanagowda s/o Govindappa Vasanada, the DGO, while working as Village Accountant of Belavalakoppa Circle in Badami taluk of Bagalkote District, the complainant namely Sri Vijaykumar s/o of Belavalakoppa village had purchased 3 acres 17 guntas of land in sy.no.150/2 of Belavalakoppa village under registered sale deed dtd. 17-10-2011 and after intimation was sent to you from the office of the Sub-Registrar and the Tahasildar and on 28-10-2010 you asked for bribe of Rs.4,000/- to take further action and on 02-11-2011 you received bribe of Rs.2,500/- from the complainant to show official favour failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1(i) to (iii) of Karnataka Civil Service (Conduct) rules 1966.	*You the accused named above, being public servant working as village accountant at Belavalakoppa village, on 2.11.2011 at about 2.30 p.m. in a room situated at Badami within the limits of lokayukta police station, Bagalkot obtained gratification of ₹2,500/- from the complainant Vijaykumar in the presence of CW.3 Venkoba as a reward for doing official act and thereby committed an offence punishable under S.7 of Prevention of Corruption Act. 1988 and within the cognizance of this court.* *Lastly you the accused named above, on the aforesaid date. time and place, being a public servant, obtained for yourself pecuniary advantage of ₹2,500/- from the complainant Vijaykumar and thereby abused your position as a public servant and thereby committed an offence under S.13(1)(d) punishable under S.13(2) of Prevention of Corruption Act, 1988 and within the cognizance of this court.* *And I hereby direct that you be tried by this court on the above said charge.*

k) The aforesaid charges make it clear that the burden is on the employer to prove the misconduct of the employee and in the criminal proceedings, the charges are with regard to the commission of an offence under the provisions of the Prevention of Corruption Act, 1988. By no stretch of imagination can the charges leveled against the employee in both the proceedings be termed as similar. In the departmental proceedings, the employer is required to prove the general misconduct of the employee, however, in the criminal proceedings, the charges are with regard to obtaining illegal gratification of Rs.2,500/- from the complainant as a reward for doing an official act and thereby committing an offence punishable under Sections 7, 13(1)(d) read with Section 13(2) of the PC Act. The perusal of the judgment of the Sessions Court in Spl.C.No.15/2012 clearly indicates that the acquittal of the employee who was the accused is for the reason that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and the acquittal is not the honorable acquittal. The enunciation of law laid down by the Hon'ble Supreme Court referred *supra* makes a clear

distinction with regard to the honorable acquittal and acquittal of the accused on the ground of 'benefit of doubt'. In the case on hand, if the judgment of the Sessions Court is read in entirety, it clearly indicates that some of the prosecution witnesses have turned hostile, which resulted in acquittal due to benefit of doubt. The Hon'ble Supreme Court has clearly held an honorable acquittal is distinct from an acquittal due to witnesses turning hostile or due to technical reasons. Hence, the contention of the learned Senior Counsel for the employee that the acquittal in the criminal proceedings is required to be taken note of, has no merit and accordingly, the same is rejected. Considering the evidence on record we are of the considered view that the charges leveled against the employee are proved, the enquiry was conducted after providing sufficient opportunity to the employee. The KSAT ought not to have interfered with the findings recorded in the departmental proceedings without properly appreciating the evidence on record. Hence, the impugned order of the KSAT is required to be set-aside.

l) We conclude by recording that the court or tribunal should not lightly interfere in the matter of misconduct arising out of charges of corruption. Corruption is a menace that not only threatens the very fundamental principles of democracy, but also undermines the rule of law and the institutions that serve as its guardian. In the face of corruption, the courts are not mere spectators but rather the last bastion of justice, duty-bound to uphold the rule of law and ensure that accountability prevails over impunity.

12. In view of the above, we proceed to pass the following:

ORDER

(i) The writ petition is allowed.

(ii) The impugned order dated 12.04.2023 passed in Application No.12621/2020 by the Karnataka State Administrative Tribunal, Belagavi is set-aside.

(iii) The order dated 21.10.2020 bearing No.ಕಂಇ 109 ಬಿಡಿಪಿ 2012 ಬೆಂಗಳೂರು, is upheld.

(iv) No order as to costs.

Sd/-
(S.SUNIL DUTT YADAV)
JUDGE

Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE

RKM, RH/CT-AN
List No.: 1 Sl No.: 1