

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 13970 OF 2023

Between:

Shaik Sarwar Pasha, S/o Shaik Mohiddin, Aged about 76 years, Retired Inspector Police, R/o H.No.3-10-202, Reddy Colony, Hanumakonda, Hanumakonda District, Telangana State.

...PETITIONER

AND

1. The State of Telangana, Home Department, Secretariat Buildings, Hyderabad, Rep. by its Principal Secretary.
2. The Director General of Police, Telangana State, Lakadi-ka-Pool, Hyderabad.
3. The Deputy Inspector General of Police, Karimnagar Range, Karimnagar, HAC of Warangal Range, Warangal, Telangana.
4. The Accountant General, State of Telangana, Saifabad, Khairatabad, Hyderabad - 500004.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order or Direction more particularly one in the nature of a Writ of MANDAMUS, declaring the action of the 1st Respondent herein in issuing GOMs.No.12, Home (Services-I) Department, dated 25.01.2012, thereby imposing the penalty of withholding of 50 % pension of the Petitioner for a period of 5 (five) years under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 read with Rule 20 of Andhra Pradesh Civil Services (CC&A) Rules, 1991 and the consequential proceedings issued by the 3rd Respondent herein in C.No.01/PR/2012, R.O.No.82/2012, dated 15.02.2012, besides recovery proceedings vide Memo No.1498/L&O-1/A2/2003-2, dated 21.06.2004, issued by the 2nd Respondent herein,

though the Petitioner was acquitted in Criminal Appeal No.93 of 2009, dated 08.10.2010, on the file of the Principal Sessions Judge, Khammam in Crime No.175/2001, registered under Section 304-A of IPC, on the file of the II Additional Judicial Magistrate of First Class, Khammam, set aside the same, as illegal, arbitrary, irrational and violative of Article 14, 19 and 21 of Constitution of India and Consequently direct the Respondents herein to release the 50% pension which was withheld for a period of 5 (five) years pursuant to GOMs.No.12, Home (Services-I) Department, dated 25.01.2012 and the consequential proceedings issued by the 3rd Respondent herein in C.No.01/PR/2012, R.O.No.82/2012, dated 15.02.2012 and release an amount of Rs.3,00,000/- which was recovered from the Petitioner and declare that the Petitioner is entitled to be promoted as Deputy Superintendent of Police on notional basis on the date on which he was eligible for the said post when in service with all consequential benefits, forthwith.

I.A. NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents herein to release the 50% pension which was withheld for a period of 5 (five) years pursuant to GOMs.No.12, Home (Services-I) Department, dated 25.01.2012 and the consequential proceedings issued by the 3rd Respondent herein in C.No.01/PR/2012, R.O. No.82/2012, dated 15.02.2012 and release an amount of Rs.3,00,000/- which was recovered from the Petitioner, pending disposal of the above Writ Petition.

I.A. NO: 1 OF 2025

Petition under Order 6 Rule 7 under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue a Writ or Order or Direction more particularly one in the nature of Writ of MANDAMUS, declaring the action of the 1st respondent herein in issuing impugned punishment order vide G.O. Ms. No. 12, Home (Services-I) Department, dated 25.01.2012, on the same set of allegations in Cr.No. 175/2001 registered U/s 304-A of IPC, imposing the penalty of withholding of 50% pension of the petitioner for a period of 5 (five) years under Rule 9 of Andhra Pradesh Revised

Pension Rules, 1980 read with Rule 20 of Andhra Pradesh Civil Services (CC&A) Rules, 1991 and the consequential proceedings issued by the 3rd respondent herein in C.No. 01/PR/2012, R.O. No. 82/2012 dated 15.02.2012 and recovery proceedings vide Memo No. 1498/L&O-1/A2/2003-2 dated 21.06.2004, whereby an amount of Rs. 3,00,000/- was recovered from the pensionary benefits of the petitioner, though the petitioner was acquitted in criminal appeal No. 93 of 2009 dated 08.10.2010 on the file of the Principal Sessions Judge, Khammam and not treating the period of suspension as on duty and also not considering the petitioner for promotion to the post of Deputy Superintendent of Police as per his date of eligibility, as being illegal, arbitrary, irrational and violative of Article 14, 19, 21 and 300-A of the Constitution of India and contrary to various judgments of Hon'ble Supreme court of India and consequently setaside the punishment and recovery proceedings and consequently direct the respondents to treat the period of suspension from 07.07.2001 to 30.11.2004 as on duty and further to consider the petitioner for promotion to the post of Deputy Superintendent of Police from the date of his eligibility, to re-fix his pension and other pensionary benefits and release full pension with interest in view of acquittal in Criminal Case in CrI. Appeal No. 93/2009, dt: 8.10.2010 on the file of the PrI. Session Judge, Khammam with all consequential benefits.

Counsel for the Petitioner: SRI NAYAKAWADI RAMESH

Counsel for the Respondent No.1 to 3: AGP FOR SERVICES-I

Counsel for the Respondent No.4: SRI K.BALAKRISHNA, SC FOR AG

The Court made the following: ORDER

**THE HIGH COURT FOR THE STATE OF TELANGANA AT
HYDERABAD**

THE HON'BLE MRS. JUSTICE SUREPALLI MANDA

WRIT PETITION No.13970 OF 2023

DATE: 20.01.2026

BETWEEN:

Shaik Sarwar Pasha

... **Petitioner**

And

The State of Telangana,
Home Department, Hyderabad,
And (3) others

... **Respondents**

ORDER

**Heard Sri Nayakawadi Ramesh, learned counsel
appearing on behalf of the petitioner, the learned
Assistant Government Pleader for Services-I
appearing on behalf of the Respondent Nos.1 to 3 and
Sri K. Balakrishna, learned standing counsel
appearing on behalf of the Respondent No.4**

**2. The petitioner approached the Court seeking
prayer as under:**

"...to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st Respondent herein in issuing G.O.Ms.No.12, Home (Services-I) Department, dated 25.01.2012, thereby imposing the penalty of withholding of 50% pension of the petitioner for a period of 5 (five) years under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 read with Rule 20 of Andhra Pradesh Civil Services (CC&A) Rules, 1991 and the consequential proceedings issued by the 3rd respondent herein in C.No.01/PR/2012, R.O.No.82/2012 dated 15.02.2012, besides recovery proceedings vide Memo No.1498/L&O-1/A2/2003-2, dated 21.06.2004, issued by the 2nd Respondent herein, though the Petitioner was acquitted in Criminal Appeal No.93 of 2009, dated 08.10.2010, on the file of the Principal Sessions Judge, Khammam in Crime No.175/2001, registered under Section 304-A of IPC, on the file of the II Additional Judicial Magistrate of First Class, Khammam, set aside the same, as illegal, arbitrary, irrational and violative of Article 14, 19 and 21 of Constitution of India and Consequently direct the Respondents herein to release the 50% pension which was withheld for a period of 5 (five) years pursuant to G.O.Ms.No.12, Home (Services-I) Department, dated 25.01.2012 and the consequential proceedings issued by the 3rd Respondent herein in C.No.01/PR/2012, R.O.No.82/2012, dated 15.02.2012 and release an amount of Rs.3,00,000/- which was recovered from the petitioner and declare that the petitioner is entitled to be promoted as Deputy Superintendent of Police on notional basis on the date on which he was eligible for the said post when in

service with all consequential benefits, forthwith and to pass such other order..."

3. The case of the petitioner, in brief, is that the petitioner, while serving as Inspector of Police Khammam Town Circle, was implicated in Crime No.175 of 2001 under Section 304-A IPC after petitioner's service revolver accidentally discharged during a scuffle, causing a death. Later, the petitioner was acquitted on merits by the Principal Sessions Judge, Khammam, in Criminal Appeal No.93 of 2009 dated 08.10.2010, holding that the incident was purely accidental.

On an earlier occasion, the petitioner had filed O.A. SR No.14356 of 2015 before the A.P. Administrative Tribunal, which was not renumbered by this Court after the bifurcation of the State of Andhra Pradesh. Despite the acquittal, the disciplinary proceedings continued even after petitioner's retirement on 30.11.2004. A show cause notice dated 01.08.2011 was issued proposing to withhold 50% of petitioner's pension for five years, and by G.O.Ms.No.12 dated 25.01.2012, the Government imposed the said penalty, followed by consequential proceedings dated

15.02.2012. Additionally, a sum of Rs.3,00,000/-, paid to the legal heirs of the deceased, was recovered from the petitioner's pensionary benefits on 18.07.2014. Aggrieved by the same, the petitioner had approached this court by filing the present writ petition.

4. **PERUSED THE RECORD:**

(A) The averments made in the counter affidavit filed by the respondents, in particular, paras 6, 7 and 9, are extracted hereunder:

"6. In response to paras - 9 to 14, it is respectfully submitted that, the connected OE records along with service particulars and defaulter sheet were sent to the Government for taking further action against the charged officer (Retired) under Rule 9 (2) of A.P. Revised Pension Rules, 1980. **After careful examination of the entire matter and based on the records made available, Government have provisionally decided to impose a penalty of withholding of 50% pension for a period of five years under Rule 9 of A.P. Revised Pension Rules, 1980,** issued a Show-cause-notice vide Govt.Memo No. 13744/Sec.I/A2/2011-1, Dt.01.08.2011 calling for his explanation, if any. He acknowledged the Show-cause-notice on 21.09.2011. The charged officer submitted his explanation to the show-cause-notice and requested to drop further action, for the reasons mentioned therein.

After taking the explanation of the charged officer into consideration, Government have decided to impose a penalty of withholding of 50% pension for a period of (5) years on the charged officer', under Rule 9 (1) of A.P. Revised Pension Rules, 1980 read with rule 20 of APCS (CC&A) Rules, 1991, vide G.O.Ms. No. 12 Home (SERVICES-I), Dept., Dt.25.01.2012, communicated through C.O.Endt.Rc.No.4471/Appeal-1/2010, Dt.02.02.2012. Pursuant to the above, in pursuance orders were issued by this office vide R.O.No.82/2012 (C.No.02/PR/2012), Dt. 15.02.2012.

7. In response to Paras - 15 to 16, it is respectfully submitted that, proceedings in a criminal case and the departmental proceedings operate in distinct and different jurisdictional areas. Whereas in the departmental proceedings, where a charge relating to misconduct is being investigated, the factors operating in the mind of the disciplinary authority may be many such as enforcement of discipline or to investigate the level of integrity of the delinquent or the other staff the standard of proof required in those proceedings is also different than that of criminal case. While in the departmental proceedings the standard or proof is one of preponderance of the probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubt. Herein, the departmental proceedings is based on collateral grounds and not on the same set of facts based in the criminal case. As per A.P. Police Manual Order No.151 (2) "when a criminal Court acquits an officer on a purely technical ground or due to hostility of witnesses or on some

other fact other than misconduct, it does not prohibit the department from proceeding against him in departmental proceedings".

9. It is respectfully submitted that, as per Rule 3 of the APCS (Conduct) Rule, 1964 a Government servant shall do nothing which is unbecoming of a Government servant. It is the exigencies of circumstances that alone can determine as to what is becoming or unbecoming for a Government servant to do or not do. The charges attributed against the petitioner are grave in nature. As per the standing Orders and Rules in vogue, a person should fully fit into the eligibility criteria. Pendency of Oral Enquiry or under currency of any punishment shall restrain the candidate from being considered for promotion to the next higher rank in service. **Herein, the petitioner retired on superannuation on attaining the age of 58 years w.e.f.30.11.2004 while facing grave charges. If Government were to sit back and permit its officials to commit any outrage in their private lives, provided it falls short of a criminal offence, the result may very well be a catastrophic fall in the moral prestige of the administration. The behaviour of the petitioner is considered morally wrong and offensive and thus deserves no reprieve.**

(B) The order impugned dated 25.01.2012 issued by the 1st respondent vide G.O.Ms.No.12, is extracted hereunder:

Read the following:-

1. From the Director General of Police, A.P., Hyderabad, Letter Rc.No.4471/Appeal-1/2010, dated 29.04.2011.
2. Govt. Memo No.13744/Ser.I/A2/2011-1, dated 1.8.2011.
3. From Sri Sk.Sarwar Pasha, Inspector of Police (Retired), Explanation dated 21.9.2011.
4. Govt. Letter No.13744/Ser.I/A2/2011-2, dated 20.12.2011.
5. From the Secretary, Andhra Pradesh Public Service Commission, Hyderabad Letter No.1920/ST-1/3/2011, dated 3.1.2012.

O-O-O

ORDER :

The Director General of Police, A.P., Hyderabad, in his letter 1st read above, has reported that Sri Sk.Sarwar Pasha, Inspector of Police, formerly of Khammam District (now retired) was handed upon a charge under Rule-20 of APCS (CC&A) Rules, 1991, vide Memorandum No.31/C/2001, dated 10.12.2001 of Deputy Inspector General of Police, Warangal Range, Warangal, for the following delinquency:-

"Exhibited gross dereliction of duty in handling his .38 service revolver in a rash and negligence manner and fired one round resulting in the death of Sri Muvvala Tulasidas, a businessman, r/o Khammam".

The Addl. Superintendent of Police (Admn). Warangal Rural, who was appointed as Enquiry Officer, has conducted the O.E. and submitted his findings holding the charge as proved against the Charged Officer. A copy of the inquiry report was served on the charged officer, calling his further representation if any thereon. The charged officer has submitted his further representation thereon. Since the charged officer had retired from service on 30.11.2004 on superannuation, the Director General of Police, A.P. Hyderabad has forwarded the entire O.E. records to the Government to conclude the disciplinary proceedings under Rule-9 of A.P. Revised Pension Rules, 1980.

2. After careful examination of the entire matter and based on the records made available, Government have provisionally decided to impose a penalty of 'withholding of 50% pension for a period of (5) years on Sri Sk.Sarwar Pasha, Inspector of Police, formerly of Khammam District (now retired), under Rule 9 of A.P. Revised Pension Rules, 1980, for the charge held proved in the enquiry.

3. In Govt. Memorandum 2nd read above, a show cause notice was issued to the said Retired Charged Officer, duly indicating the quantum of cut in pension, as required under A.P. Revised Pension Rules, 1980.

4. In the reference 3rd read above, the Charged Officer has Submitted his explanation to the show cause notice and requested the Government to drop further action, for the reasons mentioned therein.

5. After taking the explanation of the Charged Officer into consideration, Government have decided to impose a penalty of 'withholding of 50% pension for a period of (5) years' on Sri Sk. Sarwar Pasha, Inspector of Police, formerly of Khammam District (now retired), and sought the advice of Andhra Pradesh Public Service Commission thereon, vide reference 4th read above.

6. The Secretary, Andhra Pradesh Public Service Commission, in his letter 5th read above, has conveyed the concurrence of the Commission on the proposal of the Government.

7. Government after careful examination of the entire matter hereby impose the penalty of withholding of 50% pension for a period of five years on Sri Sk.Sarwar Pasha, Inspector of Police, formerly of Khammam District (now retired), under Rule-9 (1) of A.P.Revised Pension Rules, 1980, read with rule 20 of APCS (CC&A) Rules, 1991.

8. A copy of the letter 5th read above received from the Secretary, Andhra Pradesh Public Service Commission, is herewith furnished to Sri Sk.Sarwar Pasha, Inspector of Police, formerly of Khammam District (now retired), as required under Rule-44 of APCS (CC&A) Rules, 1991.

9. The Director General of Police, A.P., Hyderabad, is requested to take follow up action on implementation of the said penalty. The records received in the reference 1st read above, are herewith returned to the Director General of Police, A.P., Hyderabad and receipt of the same should be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF
ANDHRA PRADESH)

P. GAUTAM KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT

**(C) The consequential proceedings of the 3rd
respondent vide C.No.02/PR/2012, R.O.No.82/2012,
dated 15.02.2012, is extracted hereunder:**

"Sub: -Public Services - Police Department - Warangal Range-Disciplinary proceedings against Sri Sk.Sarwar Pasha, Inspector of Police (Retd). Khammam District - Charge held proved - Penalty of withholding of 50% pension for a period of five years under rule 9 of A.P. Revised Pension Rules, 1980 - Imposed - Orders - Issued.

Ref:-1) This office articles of charge memo C.No.31/C/01, dt. 10-12-01.

2) This office Memo C.No.31/C/2001. Dt. 29-1-02.

3) Minutes in C.No.2/OE-Addl. SP(A)-R/09-10, dt.30-10-10 drawn Addl. SP(Admn), Warangal Rural.

4) This office Memo C.No.31/C/01, dtd.8-11-2010.

5) Further Representation dt. 12-12-10 of Sri Sk.Sarwar Pasha, Inspector of Police (Retd), Khammam District.

6) This office letter C.No.31/C/2001, dt.22-12-2010.

7) This office letter C.No.31/C/2001. dt.4-2-11.

8) G.O.Ms. No. 12 Home (Ser-1) Dept... dt.25-1-12
communicated with C.O. Endt. Rc. No.4471/Appeal-
5/10. dt. 2-2-2012.

* **

ORDER:

Sri Sk. Sarwar Pasha, Inspector of Police (Retired) of Khammam District was handed upon a charge involving oral enquiry under Rule 20 of APCS (CC & A) Rules 1991 vide reference 1st cited above for the following delinquency.

*Exhibited gross dereliction of duty in handling his .38 service revolver in a rash and negligent manner and fired one round resulting in the death of Sri Muvvala Tulasidas. a businessman, r/o Khammam".

2. The Addl. Superintendent of Police (Admn), Warangal was appointed as an Inquiring Authority to inquire into charges framed against charged officers vide reference 2nd cited.

3. The Enquiry Officer has conducted regular oral enquiry against the charged officer as required under Rule 20 of APCS (CC&A) Rules. 1991 giving them all reasonable and admissible opportunities and submitted his findings duly holding the charge as 'Proved' vide reference 3rd cited. Agreeing with the findings of Enquiry Officer a copy of minute was supplied to him calling for his further representations, if any, vide reference 4th cited. Having acknowledged the copy of minute the charged officer has submitted his further representation vide reference 5th cited.

4. Since Sri Sk. Sarwar Pasha, Inspector of Police (Retired) of Khammam District has retired from service on superannuation pension w.e.f. 31-11-2004. the entire O.E. file was sent to Chief Officer for onward sending to Government for taking action against him under rule 9 (2) of A.P. Revised Pension Rules. 1980 vide reference 6th cited.

5. The Government after examining the entire matter has imposed the penalty of withholding of 50% pension for a period of five years on Sri Sk.Sarwar Pasha, Inspector of

Police (Retired) of Khammam District under rule 9 (1) of A.P. Revised Pension Rules, 1980 read with rule 20 of APCS (CC&A) Rules, 1991 vide reference 8th cited.

6. In pursuance of Government Orders vide reference 8th cited Sri Sk.Sarwar Pasha, Inspector of Police (Retired) of Khammam District is awarded the penalty of "withholding of 50% pension for a period of five years".

'Certified that the procedure prescribed under Rule 20 of APCS (CC&A) Rules, 1991 has been correctly followed'.

Sd/-

Dy.Inspector General of Police,
Karimnagar Range Karimnagar,
HAC of Warangal Range"

(D) The relevant portion of the verdict passed in Criminal Appeal No.93 of 2009 on 08.10.2010, in particular, in favour of the petitioner herein at para Nos.22, 23 and 24 is extracted hereunder:

"22. The observations of the learned Magistrate that the accused-police officer who was heading the raiding party ought not to have used the revolver to nab the naxalites who were un armed, that the accused-police officer being a senior experienced police officer ought to have handled the service revolver with more care and caution that the accused-police officer has failed to handle the service revolver properly and that therefore he is guilty of the offence punishable U/s.304-A IPC do not appear to be based on proper appreciation of the facts and

law. The learned Magistrate failed to appreciate that there was absolutely no nexus between the result and the intention or the knowledge of the appellant/accused.

23. In view of the foregoing discussion, it is held that the prosecution failed to prove its case that the accused acted in a rash and negligent manner so as to attract the penal provisions of Section 304-A IPC. Therefore, the accused is entitled to an acquittal and the impugned Judgment holding otherwise is liable to be set aside. The point is accordingly answered.

24. In the result, the appeal is allowed setting aside the conviction and sentence passed by the II Addl. Judicial Magistrate of First Class, Khammam in C.C.No.462 of 2004, dt.26.08.2009 and the appellant/accused is acquitted for the offence punishable U/s.304 IPC. Fine amount if any paid by the appellant shall be returned to the appellant."

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

(i) The petitioner attained superannuation on 30.11.2004, and the order impugned dated 25.01.2012 issued vide G.O.Ms.No.12, imposing a penalty of withholding of 50% of the petitioner's pension for a period of five years

under Rule 9 of A.P. Revised Pension Rules 1980 was passed after petitioner's retirement. Hence, the order impugned is illegal.

(ii) On the very same set of facts, a criminal case had been registered against the petitioner in C.C.No.462 of 2004 wherein the petitioner was convicted and sentenced to undergo Rigorous Imprisonment for Six months and a fine of Rs.1,000/- for the offence under Section 304-A IPC against the petitioner herein. Aggrieved by the same, the petitioner preferred Criminal Appeal No.93 of 2009 on the file of the Court of the Principal Sessions Judge at Khammam, and the said Appeal was allowed on 08.10.2010 in favour of the petitioner herein.

(iii) In view of the clear finding in favour of the petitioner in the verdict dated 08.10.2010 in Criminal Appeal No.93 of 2009, wherein it was held that the petitioner did not act in a rash or negligent manner or exhibit gross dereliction in discharging petitioner's duties, hence the petitioner is entitled for the relief as prayed for by the petitioner in the present writ petition.

(iv) But however, without considering the explanation dated 22.09.2011 furnished by the petitioner herein in response to the show cause notice dated 01.08.2011 issued to the petitioner by the Respondent No.1, and the clear findings recorded in favour of the petitioner by the verdict dated 08.10.2010 passed in Criminal Appeal No.93 of 2009 on the file of the Court of the Principal Sessions Judge, Khammam, the order impugned daed 25.01.2012 by the 1st respondent and the consequential proceedings dated 15.02.2012 had been issued by the 3rd respondent mechanically, and in a routine and casual manner.

Based on the aforesaid submissions, the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled for the relief as prayed for by the petitioner in the present writ petition.

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

(i) That the order impugned is dated 25.01.2012 and the consequential proceedings of the 3rd respondent are dated 15.02.2012 are legal and valid. The petitioner approached this Court only in the year 2023 and hence there is inordinate delay on the part of the petitioner in approaching this Court for the relief as prayed for by the petitioner in the present writ petition and hence the writ petition is liable to be dismissed on the ground of delay, and laches.

(ii) There is no illegality in the order impugned dated 25.01.2012 and 15.02.2012 in the present writ petition and the same had been passed strictly in accordance to law.

(iii) The explanation of the petitioner had been duly considered and the penalty of withholding 50% of the petitioner's pension for a period of 5 years under Rule 9 of A.P. Revised Pension Rules, 1980 had been imposed in accordance to law which warrants no interference by this Court.

Based on the aforesaid submissions, the learned Assistant Government Pleader appearing on behalf of the respondents contends that the writ petition needs to be dismissed.

DISCUSSION AND CONCLUSION:

7. It is the specific case of the petitioner that the charges which formed the basis for initiation of the criminal proceedings against the petitioner are identical to the charges in the disciplinary proceedings. On the very same subject issue, the petitioner obtained final orders in Criminal Appeal No.93 of 2009, wherein the conviction and sentence passed by the II Additional Judicial Magistrate of First Class, Khammam in C.C.No.462 of 2004 dated 26.08.2009 were set aside and the petitioner was acquitted of the offence punishable under Section 304-A IPC. In view of the said acquittal, the impugned proceedings dated 25.01.2012 and consequential proceedings dated 15.02.2012 of the 3rd respondent are totally unwarranted and uncalled for. But

however, without considering these vital aspects, the order impugned had been passed mechanically.

8. A bare perusal of the record and the impugned proceedings dated 25.01.2012 issued against the petitioner vide G.O.Ms.No.12 clearly indicates that the said proceedings are bereft of reasons. The impugned order does not reflect any consideration of the detailed explanation dated 22.09.2011 submitted by the petitioner in response to the Show cause notice dated 01.08.2011 issued to the petitioner herein. Further, the order impugned does not indicate any discussion with regard to the specific pleas put forth by the petitioner in the petitioner's representation dated 22.09.2011.

9. **The judgment of the Apex Court reported in 2006 5 SCC 446 in G.M.Tank Vs. State of Gujarat and others in particular, paragraph No.30 and 31 are extracted hereunder:**

"30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. **In this case,**

the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and

acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. **It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.**

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

10. The Apex Court, in the judgment dated 04.12.2023 reported in 2023 SCC Online SC 1618 in "Ramlal Vs. State of Rajasthan and others", in particular, at paragraph Nos.28 and 29 observed as under:

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

29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate

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that the charge against the appellant was not just, "not proved" — in fact the charge ever 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.**

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

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

"For having involved in a criminal case of alleged killing on 25-2-1996 which has resulted in framing criminal case against you as Crime No. 30 of 1996 under Sec. 302 of the Indian Penal Code (I.P.C) by Muthyalareddypalli police station which amounts

misconduct under Sec. 29 (xxxi) of A.P.S.R.T.C. Employees Conduct Regulations, 1963."

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

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

4. Challenging the order of the learned single Judge, the R.T.C. has filed this Writ Appeal. We find no merit in the appeal inspite of the persuasion of the learned counsel for the appellant-R.T.C. We have already pointed out as to what charge was framed in the disciplinary enquiry against the petitioner. It has to be noted that the charge was not for the substantive act of having caused death of the wife. **The charge was only that petitioner was involved in a criminal case and the said involvement had resulted in framing of a criminal case for offence under Section 302 of the I.P.C.** The argument of the learned counsel for the appellant is that in course of the enquiry the petitioner had himself stated that death of his wife was result of his delinquency. It is argued that in view of this admission of the petitioner the disciplinary authority was justified in accepting the

same and Court cannot reappreciate the evidence. We fail to understand as to how the statement of petitioner was relevant in the instant case.

The charge was only for involvement in a criminal case resulting in instituting of a criminal case against the petitioner. As soon as the criminal case itself was found to be untenable in Court of law, the very basis of the charge was knocked out. The charge should have been quashed as and when the criminal case ended in acquittal. Involvement in a criminal case which was not tenable in Court of law can hardly amount to any delinquency. It cannot be disputed that the disciplinary authority is entitled to hold a disciplinary enquiry on the same charge as is before a Criminal Court because the scope of disciplinary enquiry and a criminal trial is different. But where the charge in the disciplinary enquiry is necessarily dependent on the result of the criminal case if the criminal case itself ends in favour of the delinquent, the charge in the disciplinary enquiry will become unsustainable one. In the facts and circumstances of the case having regard to the charge framed against the petitioner and having regard to the result of the criminal case, we have no manner of doubt that the learned single Judge was right in allowing the petitioner's claim.

In view of the clear observations of the Apex Court in the three Judgments 1999 (3) SCC 679, 2003 SCC Online SC 1618, 2006 5 SCC 446 and the Division Bench Judgment of this Court in A.P.S.R.T.C. Vs. T. Venkatapati, reported in 1999 (1) A.P.L.J., 189 (HC), referred to and extracted above, this Court opines that the Respondent No.1 and Respondent No.3

herein failed to take into consideration the specific pleas of the petitioner that the charge framed against the petitioner in the disciplinary proceedings dated 10.12.2001 and the Charge Sheet issued against the petitioner in Crime No.175 of 2001 for the offence punishable under Section 304-A of IPC was based on the same set of facts and the petitioner had been acquitted for the said offence vide verdict dated 08.10.2010 in C.A.No.93 of 2009 and hence the very charge framed against the petitioner in the disciplinary proceedings had been knocked out.

12. The Apex Court in the judgment reported in 2022 SCC Online SC 232 in Sunil Kumar Rai & Others Vs. State of Bihar & Others dated 21.02.2022 at Paras 7, 8, 10, and 11 observed as under :

Para 7: Article 32 of the Constitution provides for a Fundamental Right to approach the Supreme Court for enforcement of the Fundamental Rights. The founding fathers contemplated that the very right to approach this Court when there is a violation of Fundamental Rights, should be declared as beyond the reach of Parliament and, therefore, it is as a part of judicial review that the right under Article 32 has been put in place and invoked from time to time. That in a given case, the Court may refuse to entertain a petition under Article 32 of the Constitution is solely a part of

self-restraint which is exercised by the Court having regard to various considerations which are germane to the interest of justice as also the appropriateness of the Court to interfere in a particular case. The right under Article 32 of the Constitution remains a Fundamental Right and it is always open to a person complaining of violation of Fundamental Rights to approach this Court. This is, no doubt, subject to the power of the Court to relegate the party to other proceedings.

Para 8 : At the heart of the Constitution lies certain principles which have, in fact, been recognised as part of the basic structure. Article 14 of the Constitution proclaims right to equality. The right against unfair State action is part of Article 14. Unequals being treated equally is tabooed under Article 14 of the Constitution. A person entitled to be treated as a member of Scheduled Tribe under Article 342, cannot be treated on par with a person who is brought in by an incompetent Body, viz., the State in the manner done. Article 21 of the Constitution again is the fountain head of many rights which are part of the grand mandate which has been from time to time unravelled by this Court giving rise to the theory of unenumerated rights under the Constitution. While liberty is a dynamic concept capable of encompassing within it a variety of Rights, the irreducible minimum and at the very core of liberty, is freedom from unjustifiable custody.

10. We may take up the first preliminary objection by the State, namely, that the petitioners have approached this Court with considerable delay. The impugned Notification is issued in August, 2016. A person cannot be said to be aggrieved merely upon the issuance of an instrument or of a law by itself. In fact, the Court may refuse to examine the legality or the validity of a law or order on the basis that he may have no locus standi or that he is not an aggrieved person. No doubt, the Courts have recognized challenge to even a legislation at the hands of a public

interest litigant. However, we may only indicate, ordinarily, the Court may insist on a cause of action and therefore, a person must be an aggrieved party to maintain a challenge. We must not be oblivious to the fact that based on the Notification, it appears that FIRs came to be lodged by persons claiming to be members of the Scheduled Tribe community and seeking to invoke the 1989 Act. The FIRs lodged in the year 2020 occasioned the petitioners to approach Courts seeking protection under Section 438 of the Cr.P.C. Two of the petitioners have not secured such protection. Petitioner No. 1, it appears was not arrested. But even assuming for a moment, that the petitioners have come with some delay, we find reassurance from the opinion of this Court in the judgment reported in Assam Sanmilita Mahasangha v. Union of India (2015) 3 SCC 1, wherein this Court has inter alia held as follows:—

32. ".....Further, in Olga Tellis v. Bombay Municipal Corpn., it has now been conclusively held that all fundamental rights cannot be waived (at para 29). Given these important developments in the law, the time has come for this Court to say that at least when it comes to violations of the fundamental right to life and personal liberty, delay or laches by itself without more would not be sufficient to shut the doors of the court on any petitioner."

11. Therefore, we do not think we should be detained by the objection. We would think that delay by itself cannot be used as a weapon to Veto an action under Article 32 when violation of Fundamental Rights is clearly at stake.

13. This Court opines that the impugned proceedings dated 25.01.2012 by the 1st respondent and the

consequential proceedings dated 15.02.2012 by the 3rd respondent issued against the petitioner are not sustainable as per law and are liable to be set aside. The material on record clearly shows that the petitioner was acquitted by the competent appellate Court of the very same charges that formed the basis for initiating the disciplinary proceedings. In such circumstances, the continuation of disciplinary action on identical allegations cannot be justified. Moreover, the impugned order dated 25.01.2012 is bereft of reasons and does not reflect any consideration of the detailed explanation submitted by the petitioner thereby indicating non-application of mind. Insofar as the plea of delay and laches is concerned, the same cannot be accepted, as the petitioner had been continuously representing before the respondent authorities seeking redressal of petitioner's grievance. Therefore, the delay cannot be attributed to the petitioner so as to deny the relief as sought for by the petitioner herein, and the same cannot be used against the petitioner to deprive the petitioner's

fundamental right to approach this Court seeking Justice.

14. In view of the observations of the Apex Court in the Judgment reported in 2022 SCC Online SC 232 in Sunil Kumar Rai's case (referred to and extracted above) and duly taking note of the fact that the disciplinary proceedings were initiated against the petitioner after petitioner's superannuation on 30.11.2004 and the orders impugned had been passed against the petitioner in the year 2012, this Court opines that the plea of delay put forth by the learned counsel appearing on behalf of the respondents is untenable and hence rejected.

15. TAKING INTO CONSIDERATION:

- a) The aforesaid facts and circumstances of the case,**
- b) The submissions made by the learned counsel appearing on behalf of the petitioner and the learned**

- /

Assistant Government Pleader appearing on behalf of the respondents,

c) The averments made in the counter affidavit filed by the respondents, in particular, para : 6, 7 and 9 (referred to and extracted above),

d) The order impugned dated 25.01.2012 issued by the 1st respondent vide G.O.Ms.No.12 (referred to and extracted above),

e) The consequential proceedings dated 15.02.2012 of the 3rd respondent vide C.No.02, PR/2012, R.O.No.82/2012 (referred to and extracted above)

f) The observations of the Apex Court in the various Judgments (referred to and extracted above), and again enlisted below:

(i) 2006 5 SCC 446 in G.M.Tank Vs. State of Gujarath and others,

(ii) (1999) 3 SCC 679 : 1999 SCC (L&S) 810,



(iii) 2023 SCC Online SC 1618 in Ramlal Vs. State of Rajasthan and others,

(iii) 1999 (1) APLJ, 189 (HC) in APSRTC Vs. T.Venkatapati

(iv) 2022 SCC Online SC 232 in Sunil Kumar Rai & Others Vs. State of Bihar & Others

g) The observations in the Division Bench judgment of this Court in A.P.S.R.T.C. Vs. T.Venkatapati reported in 1999(1) A.P.L.J. 189(HC), in W.A.No.124 of 1999, dated 04.02.1999(referred to and extracted above)

h) The discussion and conclusion as arrived at paragraph Nos.7 to 14 of the present order,

The writ petition is allowed. The order impugned dated 25.01.2012 issued by the 1st Respondent vide G.O.Ms.No.12 and the consequential impugned proceedings dated 15.02.2012 issued by the 3rd Respondent are set aside, and the matter is remitted to the 1st respondent herein for reconsideration of the subject issue afresh duly reconsidering the petitioner's explanation dated 22.09.2011 submitted

by the petitioner in response to the Show cause notice dated 01.08.2011, duly taking into consideration the observations of the apex Court and the division bench of this Court in the judgments referred to and extracted above, and pass appropriate orders within a period of four (04) weeks from the date of receipt of a copy of the order, in accordance to law and in conformity with principles of law by providing an opportunity of personal hearing to the petitioner. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

SD/- M.OSMAN ALI BAIG
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Home Department, Secretariat Buildings, Hyderabad, State of Telangana.
2. The Director General of Police, Telangana State, Lakadika-Pool, Hyderabad.
3. The Deputy Inspector General of Police, Karimnagar Range, Karimnagar, HAC of Warangal Range, Warangal, Telangana.
4. The Accountant General, State of Telangana, Saifabad, Khairatabad, Hyderabad - 500004.
5. One CC to SRI NAYAKAWADI RAMESH, Advocate [OPUC]
6. One CC to SRI K.BALAKRISHNA, SC FOR AG [OPUC]
7. Two CCs to GP FOR SERVICES-I, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

BSR
PSK

BSK
[Signature]

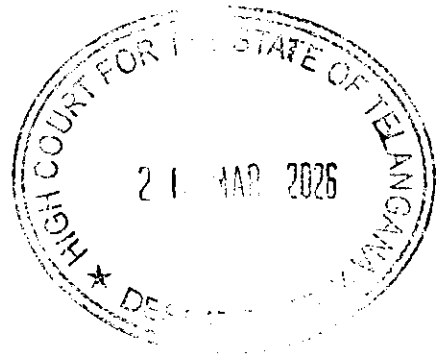
CC TODAY

HIGH COURT

DATED: 20/01/2026

ORDER

WP.No.13970 of 2023



**ALLOWING THE WRIT PETITION,
WITHOUT COSTS**

11
25/03/26
R.S.