



IN THE HIGH COURT OF ANDHRA PRADESH AT  
AMARAVATI

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**WRIT PETITION No. 18204 OF 2015**

**Between:**

The Superintendent of Police,  
Ananthapur District, Ananthapur.

--- Petitioner

And

D.S.Maruthi Prasad and another.

...Respondents

DATE OF ORDER PRONOUNCED : 23.02.2021

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE JOYMALYA BAGCHI  
&  
THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

1. Whether Reporters of Local Newspapers  
may be allowed to see the order? Yes/No
2. Whether the copy of order may be  
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to  
see the fair copy of the order? Yes/No

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**JOYMALYA BAGCHI, J**

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**A.V.SESHA SAI, J**



**HON'BLE SRI JUSTICE JOYMALYA BAGCHI  
AND  
HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No. 18204 of 2015**

(Taken up through video conferencing)

**ORDER:** (Per Hon'ble Sri Justice Joymalya Bagchi)

Order dated 20.11.2012 in OA No.3537 of 2010 passed by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), Hyderabad, quashing the charge memo and the ensuing departmental enquiry initiated against the respondent employee on the ground of acquittal in the criminal case on self same charges is under challenge.

Respondent employee was working as a Police Constable, Bathalapalli, Anantapur, at the relevant time. Departmental proceedings were initiated against him on the following imputation:

*"Sri T.Fakruddin, S/o.Meera Saheb, aged 60 yrs., Retd. Teacher, D.No.4/253, 3<sup>rd</sup> Road, Anantapur came to Anantapur III Town PS. On 07.03.2010 at 12 noon and preferred a report stating that D.S.Maruthi Prasad S/o.Lakshmaiah, PC 1150 of Bathalapalli PS has abducted his daughter Kum. T.Parven Bhanu, aged 20 yrs., on his motor cycle on 06.03.2010 at about 11.00 a.m. from their house and requested to take necessary action. In this connection a case in Cr.No.50/2010 u/s.366 IPC was registered against said PC 1150 in Anantapur III Town PS and investigated into. During the course of investigation, the abducted girl Kum. Parveen Bhanu returned to her house on 25.03.2010 and subsequently when she was examined, she stated that PC 1150 D.S.Maruthi Prasad has been harassing her since a long time and was also threatening her to love him. Further she stated that on 06.03.2010 at about*



*11.00 a.m. while she was at her house, the said Maruthi Prasad came to her on a motor cycle, threatened her on the point of a knife and forcibly abducted her on his motor cycle, detained her in a house for all these days and finally left her near PTC, Anantapur at about 11.00 a.m. on 25.03.2010, threatening her to withdraw the case against him. During further course of investigation, the accused D.S.Maruthi Prasad, PC 1150 of Bathalapalli PS was arrested on 29.03.2010 at 10.15 a.m. at RTC Bus stand.”*

Over the self same accusation, a criminal case in Crime No.50 of 2020 was registered against the delinquent employee by the Station House Officer, III Town Police Station, Anantapur, for the offences punishable under Sections 366, 341 and 506 IPC and the case was numbered as SC No.422 of 2010 before the learned Principal assistant Sessions Judge, Anantapur. In the sessions case, both T.Fakruddin and the victim, Parveen Bhanu were examined but they did not support the prosecution case and the delinquent employee was honourably acquitted.

In the meantime, the employee had been declared as a deserter. He assailed the proceedings by filing OA No.5494 of 2010, whereupon the Tribunal by order dated 19.10.2010 partly allowed the application and directed the department to conduct a regular enquiry on the allegation of unauthorized absence of the applicant and pass orders on merits. However, the department did not initiate any enquiry on the issue of unauthorized absence.

On the other hand, charge memo was issued upon the employee in the impugned departmental proceedings relating to the factum of abduction of Kum. Parveen Bhanu, which was the



subject matter of the aforesaid criminal case. As the employee had been acquitted, he approached the tribunal for quashing the charge memo which was allowed by the impugned order. Aggrieved by the same, the department filed the present writ petition.

Sri Aswarthnarayana, learned Government Pleader for Services-I appearing for the petitioner submits that the departmental proceedings and the criminal proceedings operate in different fields and standard of proof in both the proceedings are different. Hence, the Tribunal erred in quashing the charge memo merely on the acquittal of the delinquent employee. In support of his contention, he relied upon ***Karnataka Power Transmission Corporation Limited Vs. C.Nagaraju and Another***<sup>1</sup>

On the other hand, learned counsel appearing for the delinquent employee submits that the charge in both the cases are one and the same and his client was honourably acquitted. Hence, no interference is called for in the order impugned.

It is true criminal proceedings and the departmental proceedings operate in different fields. While the criminal proceedings are instituted to punish an offender for commission of a crime, departmental proceedings are instituted with regard to alleged misconduct of an employee. Standard of proof in both the proceedings are different and therefore, an order of acquittal in a criminal case by itself may not sound a death knell for departmental inquiry against a delinquent employee. The general rule, however, is subject to well established exceptions, namely, where the substance of accusation in the criminal case and

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<sup>1</sup>.(2019) 10 Supreme Court Cases 367



departmental proceedings are exactly the same, same witnesses are proposed to be examined and the acquittal is an honourable one based on no evidence rendering continuation of the departmental proceedings vexatious or oppression. In this regard, reference may be made to **G.M.Tank Vs. State of Gujarat**<sup>2</sup>.

The ratio in **G.M.Tank** (*supra*) was clarified in **Pandiyan Roadways Corpn. Ltd. V. N.Balakrishnan**<sup>3</sup> and it was opined an honourable acquittal would not be determinative of the fate of a disciplinary proceeding in the following cases:-

- (i) the order of acquittal has not been passed on the same set of facts or same set of evidence;
- (ii) the effect of difference in the standard of proof in a criminal trial and disciplinary proceeding has not been considered or; where the delinquent officer was charged with something more than the subject-matter of the criminal case and/or covered by a decision of the civil Court.

The Bench concluded

*“Ordinarily, the question as to whether acquittal in a criminal case will be conclusive in regard to the order of punishment imposed upon the delinquent officer in a departmental proceeding is a matter which will again depend upon the fact situation involved in a given case”*

Distilling the ratio emanating from the aforesaid pronouncements, it may be concluded the impact of acquittal of an employee in a criminal case on departmental proceedings would depend upon the facts of each case, particularly the following issues:

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<sup>2</sup>. (2006) 5 SCC 446: 2006 SCC (L&S) 1121

<sup>3</sup> (2007) 9 Supreme Court Cases 755



- (a) Whether the accused was honourably acquitted as the prosecution was based on no evidence or in contradictions to acquittals on the score of benefit of doubt or other technicalities.
- (b) Whether the accusations in both the proceedings are one and the same;
- (c) Whether the evidence proposed to be adduced in both the proceedings are the same;

We note that the charge memo in the instant case is a replica of the accusation in the criminal case. Witnesses cited in the departmental proceedings are one T.Fakruddin, his daughter Parveen Bhanu and the Investigating Officer. All of them were examined in the criminal case and did not support the accusation. As the charge as well as the evidence proposed to be led in the departmental proceedings are exactly the same as in the criminal case wherein the employee was honourably acquitted. Hence, we are of the view that the case attracts the ratio laid down in **G.M.Tank case** (2 supra) rendering the continuation of departmental proceedings vexatious and oppressive.

Reliance on the **Karnataka Power Transmission Corporation Limited** case (1 supra) is misplaced as in the said report the charges in the departmental proceedings and the criminal case were different, witnesses in the criminal case were won over and further more the evidence proposed to be produced in the departmental proceedings was different from the criminal case. For the aforesaid reasons, the Apex Court was inclined to direct continuation of the departmental proceedings notwithstanding acquittal in the criminal case. The case is factually distinguishable as in the present one not only the charges



in the criminal case and departmental proceedings are identical, witnesses proposed to be examined in the departmental proceedings are those who had not supported the case of the prosecution resulting in an honourable acquittal of the delinquent employee in the criminal trial.

In the light of the aforesaid discussion, we are of the view that the Tribunal had rightly interdicted the continuation of the departmental proceedings on the charge memo as served upon the delinquent employee and there is no justification to interfere in the order impugned. Hence, the Writ Petition being devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, we reiterate the observations made by the Tribunal with regard to the entitlement of the department to proceed against the delinquent employee on the charge of desertion in terms of the order in OA No.5494 of 2010 on the file of the Tribunal.

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**JUSTICE JOYMALYA BAGCHI**

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**JUSTICE A.V.SESHA SAI**

23.02.2021

Note:- LR copy to be marked  
(B/o)  
Mjl/\*



**HON'BLE SRI JUSTICE JOYMALYA BAGCHI  
AND  
HON'BLE SRI JUSTICE A.V.SESHA SAI  
WRIT PETITION No. 18204 of 2015  
**ORDER:** (Per Hon'ble Sri Justice Joymalya Bagchi)  
(dismissed)**

**23.02.2021**

*Mjl/ \**