*2023:APHC:15745*

**HIGH COURT OF ANDHRA PRADESH**

FRIDAY ,THE TWENTIETH DAY OF JANUARY

TWO THOUSAND AND TWENTY THREE

**PRSENT**

**THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**WRIT PETITION NO: 25555 OF 2020**

**Between:**

1. R V NAGAMALLESWARA RAO S/o Hari Krishna,
   Aged about 34 years,(Constable)(Under dismissal from Service),
   R/o 10-4/3, Vikas School Road, Krupa Residency, Flat No.303,
   Ballem Vari Street, Prasadampadu, Vijayawada.

**...PETITIONER(S)**

**AND:**

1. STATE OF AP Represented by its Principal Secretary, Home Department, AP Secretary Buildings, Vellagapudi, Amaravathi, Guntur District.
2. The Director General of Police , Government of Andhra Pradesh, Mangalagiri, Guntur District
3. The Commissioner of police, Vijayawada, Krishna District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): A RAJENDRA BABU**

**Counsel for the Respondents: GP FOR SERVICES I**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**WRIT PETITION Nos.25555 of 2020 and 1482 of 2021**

**COMMON ORDER:**

Since the issue involved in both the writ petitions is one and the same, I deem it appropriate to dispose of both the writ petitions by way of common order.

2. The brief facts of the case are that, Petitioner in W.P.No.25555 of 2020 was appointed as Police Constable on 04.11.2009 and he worked up to October 2013 at Nunna Police Station, Vijayawada. Later, he was posted to II Town, Vijayawada Police Station in October, 2013.

3. The Petitioner in W.P.No.1482 of 2021 was appointed as a Police Constable, joined in service on 10.02.2003 and posted in Crime Branch, I Town Police Station, Vijayawada.

4. While so, an F.I.R was registered against the petitioners vide Crime No.925 of 2013, for the offences punishable under Sections 354, 384 r/w 34 of IPC, on the file of II Town Police Station, Vijayawada. Both the Petitioners were arrested and sent for remand.

5. The further case of the petitioners that the crime was registered basing upon a report submitted by one Kumari Bhudala Amulya when herself and her boy friend (Suvarna Raju) were at Y V Rao estates, both the petitioners questioned about the purpose of their stay at Y.V.Rao estates, and one petitioners took away her boy friend, Suvarna Raju from the complainant and misbehaved with the complainant by contacting her body parts from top to bottom and left the place forcibly and collected an amount of Rs.5,500/- from her boy friend.

6. Pursuant to the said crime, Respondent No.3 initiated departmental enquiry and issued Charge Memo dated 22.04.2014 and placed the petitioners under suspension, pending disciplinary proceedings. Later, the suspension order was revoked, subject to finalization of the disciplinary proceedings by Respondent No.2 vide order dated 09.01.2015.

7. It is the further case of the petitioners that the Enquiry Officer conducted common enquiry against both the petitioners and submitted report to the Respondent No.2 holding that the charges against the petitioners were proved, for which the petitioners were issued show cause notices and sought for explanation. After

submitting explanation to the show cause notice, Respondent No.3 issued proceedings dated 20.06.2018 imposing major punishment of "dismissal from service" by accepting the enquiry report in *toto* in a mechanical manner, without assigning any reasons and also treating the suspension period of the petitioners from 07.11.2013 to 10.01.2015 as a non-duty period.

8. The learned counsel for the petitioners submits that in the meanwhile, the competent Criminal Court rendered a judgment on 17.04.2014 acquitting the petitioners from the very same charge on the ground of lack of evidence and material.

9. Aggrieved by the order of Respondent No.3, the petitioners preferred appeals before the Appellate Authority i.e. Respondent No.2/DGP. The appeals were rejected vide Memo No.2344990(P)/ Ser.II/A1/2019, dated 21.05.2020, without assigning any reasons, and by way of cryptic order. The said original order of punishment of dismissal from service passed by Respondent No.3 dated 20.06.2018 and rejection of appeals by Respondent No.2 / DGP vide proceedings dated 21.05.2020, were assailed before this Court.

10. The learned Government Pleader for Services-I filed counter affidavit wherein it is stated that, in view of registration of crime

against the petitioners, they were placed under suspension. The petitioners were arrested and remanded to custody, as they were involved in the offences of moral turpitude vide proceedings dated 10.11.2013. Respondent No.3, who is the competent authority, also initiated departmental proceedings and issued Charge Memo dated 22.04.2014, basing upon the preliminary enquiry dated 15.11.2013, the petitioners submitted their explanation and after considering the explanation, the respondents appointed an Enquiry Officer and conducted enquiry in accordance with Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991(for short "the APCS (CCA) Rules, 1991") and finally submitted an Enquiry Report dated 23.07.2015 by holding that the charges against the petitioners were proved. Pursuant to the said report, the petitioners were issued show cause notices dated 29.08.2015 for which the petitioners submitted their representations / explanations dated 18.09.2015. After considering their explanations, the present impugned order of punishment of "dismissal from service" was issued vide proceedings dated 20.06.2018.

11. The learned counsel for the petitioners contends that the charge in criminal case and charge in disciplinary proceedings are one and

the same. The witnesses in both the cases are also one and the same. The Enquiry Officer who conducted the enquiry submitted his report basing upon the preliminary enquiry as well as confession statements made under Section 161 of Cr.P.C. But, there is no evidence of witnesses supporting the charges framed against the petitioners. More so, it is settled law that, in the absence of any material and as well as in the absence of any tangible evidence of the witnesses, the Enquiry Officer cannot rely upon the preliminary enquiry report as well as confessionary statements which were submitted to the Enquiry Officer only for framing charges and as guiding factor. The Respondents cannot come to a conclusion basing on the report of the Enquiry Officer. Such conclusion should be arrived at by the Respondents independently.

12. In the present case, the witnesses in departmental proceedings as well as the criminal proceedings are one and the same. But, none of the witnesses adduced any evidence against the petitioners. Therefore, the entire enquiry report is perverse and transverse beyond the settled principles of law and it is in violation of Rule 20 of APCS (CCA) Rules, 1991.

13. Learned counsel for the petitioners also relied upon the judgment rendered by the Hon'ble Apex Court in ***G.M. Tank Vs. State of Gujarat and others***[1] in para Nos.29, 30 and 31, wherein it is held as follows:

> *"29. The Judgment in the case of State of A.P. &Ors. Vs. S. Sree Rama Rao was cited for the purpose that the High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant, it is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated.*
>
> *30. The judgments relied on by the learned counsel appearing for the respondents are not 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 there from. 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*

[1] (2006) 5 SCC 446

*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 his judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed 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 department 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 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's case (supra) will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed."*

14. Learned counsel for the petitioners also relied upon the judgment rendered by the Hon'ble Apex Court in ***Sher Bahadur Vs. Union of India and others***[2] in para No.7, wherein it is held as follows:

[2] (2002) 7 SCC 142

*"7. It may be observed that the expression "sufficiency of evidence" postulates existence of some evidence which links the charged officer with the misconduct alleged against him. Evidence, however, voluminous it may be, which is neither relevant in a broad sense nor establishes any nexus between the alleged misconduct and the charged officer, is no evidence in law. The mere fact that the enquiry officer has noted in his report, "in view of oral, documentary and circumstantial evidence as adduced in the enquiry", would not in principle satisfy the rule of sufficiency of evidence. Though, the disciplinary authority cited one witness Sh.R.A.Vashist, Ex. CVI/N.Rly., New Delhi, in support of the charges, he was not examined. Regarding documentary evidence, Ex.P-1, referred to in the enquiry report and adverted to by the High Court, is the order of appointment of the appellant which is a neutral fact. The enquiry officer examined the charged officer but nothing is elicited to connect him with the charge. The statement of the appellant recorded by the enquiry officer shows no more than his working earlier to his re-engagement during the period between May 1978 and November 1979 in different phases. Indeed, his statement was not relied upon by the enquiry officer. The finding of the enquiry officer that in view of the oral, documentary and circumstantial evidence, the charge against the appellant for securing the fraudulent appointment letter duly signed by the said APO (Const.) was proved, is, in the light of the above discussion, erroneous. In our view, this is clearly a case of finding the appellant guilty of charge without having any evidence to link the appellant with the alleged misconduct. The High Court did not consider this aspect in its proper perspective as such the judgment and order of the High Court and the order of the disciplinary authority, under challenge, cannot be sustained, they are accordingly set aside."*

15. Learned counsel for the petitioners also relied upon the judgment rendered by the Hon'ble Apex Court in ***S. BhaskarReddy***

***Vs. Superintendent of Police and Another***[3] in para Nos.20 and 21, wherein it is held as follows:

> *"20. Now, we have to examine the alternative plea urged on behalf of the appellants that the orders of dismissal passed against them are liable to be set aside in view of the judgment and order passed by the Criminal Court after the trial in which proceeding the appellants were honourably acquitted, when the charges in both the proceedings are almost similar. The decisions of this Court referred to supra, upon which strong reliance is placed by the learned counsel for the appellants are aptly applicable to the case on hand.*
>
> *21. It is an undisputed fact that the charges in the criminal case and the Disciplinary proceedings conducted against the appellants by the first respondent are similar. The appellants have faced the criminal trial before the Sessions Judge, Chittoor on the charge of murder and other offences of IPC and SC/ST (POA) Act. Our attention was drawn to the said judgment which is produced at Exh. P-7, to evidence the fact that the charges in both the proceedings of the criminal case and the Disciplinary proceeding are similar. From perusal of the charge sheet issued in the disciplinary proceedings and the enquiry report submitted by the Enquiry Officer and the judgment in the criminal case, it is clear that they are almost similar and one and the same. In the criminal trial, the appellants have been acquitted honourably for want of evidence on record. The trial judge has categorically recorded the finding of fact on proper appreciation and evaluation of evidence on record and held that the charges framed in the criminal case are not proved against the appellants and therefore they have been honourably acquitted for the offences punishable under 3 (1) (x) of SC/ST (POA) Act and under Sections 307 and 302 read with Section 34 of the IPC. The law declared by this Court with regard to*

[3] (2015) 2 SCC 365

*honourable acquittal of an accused for criminal offences means that they are acquitted for want of evidence to prove the charges."*

16. Learned counsel for the petitioners also relied upon the judgment rendered by this Court in ***K. Sitaram Vs. The Vice Chancellor, S.V. University, Tirupathi and Another***[4] in para No.10, wherein it is held as follows:

*"10. The parameters of judicial review of a disciplinary proceedings are too well recognised and settled to merit an exhaustive and detailed analysis of the governing concepts as has evolved over a period of time. The concepts, however, to the extent relevant to the facts on hand may be summarised as under:*

*(a) In an application under Article 226 of the Constitution, High Court is not constituted as a Court of appeal against the decision in a disciplinary proceedings. It is merely concerned with determining whether the enquiry is held in accordance with the procedure prescribed, in confirmity with the principles of natural justice and whether there is some evidence, which the authority entrusted with the duty to hold enquiry has accepted and which evidence may reasonably support the conclusions that the delinquent officer is guilty of the charges alleged.*

*(b) It is extraneous to the judicial review function to either review or reappreciate the evidence so as to arrive at an independent finding on the evidence. High court would however be within its ordained function to consider whether the authority has disabled itself from reaching a fair decision by considerations extraneous to the evidence and the merits of the case or by allowing itself to be influenced by irrelevant consideration or whether the*

[4] 2000 (2) A.P.L.J. 473

*conclusion on the very fact of it is so wholly arbitrary and capricious that no reasonable person could have-arrived at that conclusion on similar grounds vide State ofA.P. v. Sreeram Rao, .*

*(c) Disciplinary proceedings by a public authority constitute a species of administrative action amenable to the broad principles and concepts operative on every administrative action. The validity of an administrative order which includes the appreciation of evidence by disciplinary authority is susceptible to be tested as every other administrative action on the touchstone of the tests enunciated by a catena of authorities including in the celebrated case Associated Provential Picture House Ltd. v. Wednesbury Corporation, 148(1) KB 23. A conclusion even of the disciplinary authority as to the evidence considered would be vitiated if it is one which would be arrived at by no reasonable person or on no evidence, is irrational or based on conjectures, surmises or suspicions vide Union of India v. G. Ganayutham, ; R.S. Saini v. State of Punjab and others, 1999 (5) Scale 427.*

*(d) Even in case of circumstantial evidence considered as a foundation to arrive at a finding of guilt in a departmental proceedings it is necessary that the circumstances on which the conclusion is to be drawn should be fully established. Facts established should reasonably support the conclusions of the enquiring authority and the chain of circumstantial evidence must be adequate enough as to avoid any scope for surmises, conjuclnres and suspicions needed to fill up the potential gaps in the chain of circumstances. In the absence of any direct authority on the quality of circumstantial warranted in a disciplinary proceedings this Court has fine tuned the decision of the Supreme Court in Sharad Birdhichand Sarda v. State of Maharashtra, , (which is a decision rendered in a criminal case) to the conceptual requirement of a disciplinary case."*

17. Learned counsel for the petitioners also relied upon the judgment rendered by the Hon'ble Apex Court in ***Union of India (Uoi) and others Vs. Mohd. Ibrahim***[5] in para No.2, wherein it is held as follows:

> *"2. Union of India is in appeal against the order of the Tribunal setting aside an order of the dismissal of the respondent as well as the order of the High Court refusing to interfere in its jurisdiction under Article 226 of the Constitution. In a disciplinary proceeding against the respondent, a set of charges leveled against which charges appear to be grave and serious, the ultimate conclusion of the enquiring officer having been based upon statement of persons made in the course of preliminary enquiry, the Tribunal came to hold that the conclusion is vitiated since the same was based upon the statement of persons examined in the preliminary enquiry and accordingly the Tribunal set aside the order of dismissal. The High Court on being approached has refused to interfere with the order in an application under Article 226 of the Constitution. When the matter was listed for admission, learned ASG requested that the power of the employer to start a fresh proceeding should not be whittled down in any manner, particularly in view of the nature of charges against the delinquent. He however fairly stated that in the procedure adopted in the case in hand, the order cannot be found fault with. Pursuance to the notice, respondent has entered appearance and the learned counsel for the respondent vehemently contested on the ground that 17 long years have elapsed and it will cause great hardship to start a proceeding afresh. We are unable to persuade to agree with the submission of the learned counsel for the respondent, particularly looking at the charges levelled against. In that view of the matter, though we are of the*

[5] (2001) ILLJ 1642 SC, (2004) 10 SCC 87

*considered opinion that the order of dismissal was vitiated as the findings have been based on consideration of statement of the persons examined during the preliminary enquiry but the power of employer to start a fresh proceeding cannot be taken away. Therefore, we dispose of the matter with the observation that it will be open to the competent authority to start a fresh disciplinary proceeding and conclude the same in accordance with law."*

18. Learned counsel for the petitioners also relied upon the judgment rendered by the Hon'ble Apex Court in ***Nirmala J. JhalaVs. State of Gujarat & Another*** in para Nos.22, 23 and 29, wherein it is held as follows:

*"22. In Naryan Dattatraya Ramteerathakhar v. State of Maharashtra &Ors., AIR 1997 SC 2148, this Court dealt with the issue and held as under:*

*".....a preliminary inquiry has nothing to do with the enquiry conducted after issue of charge-sheet. The preliminary enquiry is only to find out whether disciplinary enquiry should be initiated against the delinquent. Once regular enquiry is held under the Rules, the preliminary enquiry loses its importance and, whether preliminary enquiry was held strictly in accordance with law or by observing principles of natural justice of nor, remains of no consequence.*

*23. In view of above, it is evident that the evidence recorded in preliminary inquiry cannot be used in regular inquiry as the delinquent is not associated with it, and opportunity to cross-examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice.*

*29. In view of the above, we reach the following inescapable conclusions:-*

*i) The High Court failed to appreciate that the appellant had not granted long adjournments to the accused-complainant as the appellant wanted to conclude the trial at the earliest. The case of accused- complainant which was taking its time, had suddenly gathered pace, thus, he would have naturally felt aggrieved by failing to notice it. The High Court erred in recording a finding that the complainant had no ill-will or motive to make any allegation against the appellant.*

*ii) The Enquiry Officer, the High Court on administrative side as well as on judicial side, committed a grave error in placing reliance on the statement of the complainant as well as of Shri C.B. Gajjar, Advocate, recorded in a preliminary enquiry. The preliminary enquiry and its report loses significance/importance, once the regular enquiry is initiated by issuing charge sheet to the delinquent. Thus, it was all in violation of the principles of natural justice.*

*iii) The High Court erred in shifting the onus of proving various negative circumstances as referred to hereinabove, upon the appellant who was delinquent in the enquiry.*

*iv) The onus lies on the department to prove the charge and it failed to examine any of the employee of the court, i.e., Stenographer, Bench Secretary or Peon attached to the office of the appellant for proving the entry of Shri Gajjar, Advocate in her chamber on 17.8.1993.*

*v) The complainant has been disbelieved by the Enquiry Officer as well as the High Court on various issues, particularly on the point of his personal hearing, the conversation between the appellant and Shri C.B. Gajjar, Advocate on 17.8.1993, when they met in the chamber.*

*vi) Similarly, the allegation of the complainant, that appellant had threatened him through his wife, forcing him to withdraw the complaint against her, has been disbelieved.*

*vii) The complainant as well as Shri C.B. Gajjar, Advocate had been talking about the appellant's husband having collecting the amount on behalf of the appellant, for deciding the cases, though at that point of time, she was unmarried.*

*viii) There is nothing on record to show that the appellant whose defence has been disbelieved in toto, had ever been given any adverse entry in her ACRs, or punished earlier in any enquiry. While she has been punished solely on uncorroborated statement of an accused facing trial for misappropriation."*

19. It is also contended by the learned counsel for the petitioners that, the Trial Court conducted full-fledged trial and petitioners were acquitted on the ground that they are not guilty, as the Trial Court did not find any material evidence as well as oral evidence. Therefore, once the Trial Court recorded a finding that there is no evidence to prove the guilt of the petitioners, the Enquiry Officer cannot hold that the charges were proved on the basis of preliminary enquiry report, which is against Rule 20 of APCS (CCA) Rules, 1991, without supporting any material and oral evidence. Learned counsel for the petitioners further contended that the Appellate Authority being a quasi-judicial authority rejected the appeal without assigning any

reasons and considering the grounds raised by the petitioners is also contrary to the ratio laid down by the Hon'ble Apex Court and liable to be set aside.

20. Learned counsel for the petitioners further contended that the present punishment imposed by Respondent No.3 is certainly disproportionate to the alleged offences said to have been committed by the petitioners and in view of the reasons stated above the present impugned proceedings are liable to be set aside.

21. On the other hand, the learned Government Pleader for Services-I submits that the Enquiry Officer conducted detailed enquiry and after his satisfaction, he submitted report that the charges were proved against the petitioners, basing upon the evidence and statements recorded under Section 161 of Cr.P.C. are made before the Enquiry Officer.

22. He further contended the judgments of the Court below are not a case of clear acquittal but the criminal act of petitioners is compounded and in view of the same they were acquitted. He further contended that the evidence as well as defence in a criminal case altogether different from the evidence and material placed before the disciplinary authority and the nature of enquiry / investigation also

not comparable since, proving of the guilt in criminal case is by way of strict proof of liability but whereas in departmental proceedings such strict proof of evidence is not necessary and *prima facie* the conduct of petitioners should be looked into for which the learned Government Pleader for Services-I relied upon the judgment rendered by the Hon'ble Apex Court in ***Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay***[6] in para No.11.4, wherein it is held as follows:

> *"Even from the judgment and order passed by the criminal court it appears that the criminal court acquitted the respondent based on the hostility of the witnesses; the evidence led by the interested witness; lacuna in examination of the investigating officer; panch for the spot panchnama of the incident, etc. Therefore, criminal court held that the prosecution has failed to prove the case against the respondent beyond reasonable doubt. On the contrary in the departmental proceedings the misconduct of driving the vehicle rashly and negligently which caused accident and due to which four persons died has been established and proved. As per the cardinal principle of law an acquittal in a criminal trial has no bearing or relevance on the disciplinary proceedings operate in different fields and with different objectives. Therefore, the Industrial Court has erred in giving much stress on the acquittal of the respondent by the criminal court. Even otherwise it is required to be noted that the Industrial Court has not interfered with the findings recorded by the disciplinary authority holding charge and misconduct proved in the departmental enquiry, and has interfered with the punishment of*

[6] (2022) 2 SCC 696

*dismissal solely on the ground that same is shockingly disproportionate and therefore can be said to be an unfair labour practice as per clause 1(g) of Schedule IV of the MRTU & PULP Act, 1971."*

23. Learned Government Pleader for Services-I also relied upon a judgment rendered by the Hon'ble Apex Court in ***State of Karnataka and another Vs. Umesh***[7] in para No.16, wherein it is held as follows:

*"16. The principles which govern a disciplinary enquiry are distinct from those which apply to a criminal trial. In a prosecution for an offence punishable under the criminal law, the burden lies on the prosecution to establish the ingredients of the offence beyond reasonable doubt. The accused is entitled to a presumption of innocence. The purpose of a disciplinary proceeding by an employer is to enquire into an allegation of misconduct by an employee which results in a violation of the service rules governing the relationship of employment. Unlike a criminal prosecution where the charge has to be established beyond reasonable doubt, in a disciplinary proceeding, a charge of misconduct has to be established on a preponderance of probabilities. The rules of evidence which apply to a criminal trial are distinct from those which govern a disciplinary enquiry. The acquittal of the accused in a criminal case does not debar the employer from proceeding in the exercise of disciplinary jurisdiction"*

[7] (2022) 6 SCC 563

24. On the strength of the principle laid down in the above judgments, learned Government Pleader for Services-I, prayed for dismissed of the Writ Petitions.

25. Heard learned counsel for the petitioner, learned Government Pleader for Services-I and perused the material on record.

26. The grounds on which the petitioners were acquitted by the Trial Court in C.C.No.1126 of 2013 and the grounds on which they were awarded punishment of 'dismissal from service' by the Respondents in the departmental enquiry, are on the same set of facts. Moreover, the charges, evidence and witnesses in both the proceedings are also one and the same.

27. In the absence of sufficient evidence against the employee to prove his guilt but against the same accused / delinquent employee who was honourably acquitted by the Trial Court during the pendency of the departmental proceedings and holding that the very same petitioners are in guilty in the departmental proceedings by the Respondents are proved contrary to the evidence of the Trial Court in criminal proceedings which is unjust, unfair, oppressive, as such the impugned dismissal order against the petitioners is illegal, arbitrary and unsustainable.

28. In the present case, the Rule of Sufficiency of Evidence is also not complied with, which can be observed that no evidence was adduced by the witnesses either in the criminal proceedings as well as in the departmental proceedings, except in the preliminary enquiry as well as confessional statements made prior to the enquiry, which cannot be the basis for conclusion and which cannot be equated with the Principle of Rule of Sufficiency of Evidence. The recording of reasons is necessary. It is well known that "conclusions" and "reasons" are two different things and reasons must show mental exercise of authorities in arriving at a particular conclusion.

29. In "***Breen v Amalgamated Engg. Union***[8]", it was held that the giving of reasons is one of the fundamentals of good administration. In "***Alexander Machinery (Dudley) Ltd. v. Crabtress***[9]" it was observed that "failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at".

[8]1971(1) AIIER 1148
[9]1974(4) IRC 120 (NIRC)

30. In "***Union of India v. Mohan Lal Kapoor***[10]", the Hon'ble Apex Court held as under:

> *"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached."*

31. The Hon'ble Apex Court in the case of "***Uma Charan v. State of Madhya Pradesh***[11]" held that, Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable"

[10](1973) 2 SCC 836
[11]AIR 1981 SC 1915

32. The Hon'ble Apex Court of India in the case of "***Raj Kishore Jha v. State of Bihar***[12]" has held that reasons are the heartbeat of every conclusion and without the same, it becomes lifeless.

33. Passing such cryptic order is not expected from the Respondent No.1 even without adverting to any allegations made in the representations. By applying the principles laid down by the Hon'ble Apex Court in the judgments referred supra, the orders impugned in these Writ Petitions are cryptic, without considering various contentions and not supported by sound reasoning to arrive at such conclusion by Respondent No.1/DGP. Hence, the impugned orders are liable to be set-aside, as they are not in consonances with the law referred supra.

34. The contention of the learned Government Pleader for Services-I that the Enquiry Officer conducted the enquiry as per the procedure and the petitioners were provided with ample opportunity of hearing and as such, it cannot be said that the enquiry was not conducted in a fair manner by the Enquiry Officer, is not acceptable, in the absence of any independent witnesses to substantiate the case of the respondents, except the statements / report of the Investigating

[12](2003) 11 SCC 519

Team. The other contention of the learned Government Pleader for Services-I that the petitioners were involved in a case of theft which is categorised as a case of moral turpitude for which the major punishment of 'dismissal of service' was awarded to the petitioners by the competent authority cannot be found fault, is also not tenable, for the reasons that the petitioners were discharged from the charges levelled against them by the competent Criminal Court having jurisdiction and since there is no complaint by the owner of the property and there is no recovery of the property from the petitioners.

35. For the foregoing reasons and in view of the ratio laid down by the Hon'ble Apex Court as well as this Court, the impugned proceedings of "Dismissal of Service" of the petitioners issued by respondent No.3 dated 20.06.2018 and rejection of appeal by Respondent No.1/ DGP without assigning any reasons being a quasi-judicial authority by passing one line cryptic order of rejection vide proceedings dated 20.01.2020 are liable to be set aside

36. In view of the foregoing discussion and material placed before this Court, the present writ petitions are allowed setting aside the proceedings dated 20.06.2018 of the respondent No.3 and rejection of appeals dated 20.01.2010 of the respondent No.1 are hereby set aside.

It is needless to observe the respondents at liberty to conduct disciplinary enquiry afresh by following procedure as contemplated under Rules 20 and 21 of the APCS (CCA) Rules, 1991.

37. In the meanwhile, Respondents are directed to reinstate the petitioners into service with all the attendant benefits subject to completion of disciplinary proceedings within a period of six months from the date of receipt of a copy of this order. No orders as to costs.

Consequently, miscellaneous applications, if any, pending shall stand closed.

**VENKATESWARLU NIMMAGADDA, J**

20th January, 2023
Note: LR copy be marked.
(B/o)
Knr

HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

W.P.Nos.25555 of 2020 and 1482 of 2021
20th January, 2023

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