

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.234 of 2023

Haobam Rakesh Singh	... Petitioner
-Versus-	
State of Manipur & 4 Ors	... Respondents

**BEFORE
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA
ORDER (ORAL)**

20.11.2025

Heard Ms.H.Malemleima, learned counsel along with Mr.A.Arunkumar, learned counsel for the petitioner and Mr.S.Niranjan, learned Government Advocate.

[2] By the present petition, petitioner challenged the impugned order dated 20.10.2022 passed by the Commandant, 3rd IRB Khangabok, for removal of the petitioner from service, who is a Havildar in the 3rd IRB, in connection with Disciplinary Proceeding No.230/2022 initiated against him. The petitioner was also alleged to be an accused in the FIR No.45 (3) 2022 TBL PS under Section 326/34 IPC and 25 (I-C) A Act added 302 IPC. The memorandum of charge dated 25.7.2022 was issued by the Commandant 3rd IRB on two charges: (1) the petitioner was involved in the above FIR and (2) the petitioner was remanded to judicial custody in connection with the FIR and hence, there is dereliction of duty and gross misconduct.

[3] The Inquiry Officer submitted inquiry report dated 29.9.2022. It is stated that the FIR No.45 (3) 2022 Thoubal P.S, in which the petitioner was made accused, prosecution submitted

closure report of the case and Trial Court closed the case as no material is found against the petitioner. In the inquiry report, the inquiry officer gave a finding that in the night of 4.3.2022 a mob came to the house of the petitioner and made damages to the property and houses were set on fire. After coming of the police, mob vanished. However, one person was injured by bullet and later on succumbed to injury. It is also stated that two license guns belonging to the family, i.e. one DBBL gun and another pistol were deposited to Thoubal Police Station in connection with the ensuing election and hence no gun was left in the house of the petitioner. However, in the concluding part it is held that charge against the petitioner is proved.

[4] Ms.MaleMLEIMA, learned counsel for the petitioner has pointed out that the Inquiry report might be a typographical mistake, instead of writing charge is proved, it should have been typed charge has not been proved. The relevant portion is reproduced:

“ In view of the above facts and circumstance, the charges framed against the C.O for arresting in c/w the case FIR No.45(3) 2022 TBL P.S u/s 326/34 IPC & 25 (1-C) A. Act added 302 IPC and gross misconduct and dereliction of duty as member of a disciplined force is held proved.”

[5] On the basis of inquiry report, the Commandant 3rd IRB, issued the impugned order dated 20.10.2022 for imposing major penalty of removal from service with immediate effect. First appeal filed by the petitioner before the IGP was dismissed on 17.11.2022 and 2nd appeal before the Addl DGP was also dismissed on 28.12.2022 and the 3rd appeal before the DGP was dismissed on 13.2.2023. It is submitted that the disciplinary authority, 1st appellate, the 2nd and 3rd appellate authority simply relied on the conclusion of the Inquiry Officer to the fact that the charge against

the petitioner is proved without considering the other portion of the inquiry report where it is stated that there is no material of involvement of the petitioner in the FIR case. It is stated that charges of departmental enquiry for involvement of the accused in the FIR and for being remanded to judicial custody and upon finding of closure report, basis for initiating disciplinary proceeding against the petitioner do not survive any longer.

[6] Ms.Malemlima, learned counsel for the petitioner refers to the decision of the Hon'ble Supreme Court in the case of **G.M.Tank Vs State of Gujarat & Ors : (2006) 5 SCC 446**, para 20, which held that "the appellant has been honourably acquitted by the competent court on the same set of facts, evidence and witness and, therefore the dismissal order based on the same set of facts and evidence on the departmental side is liable to be set aside in the interest of justice". It is pointed out that in the case in hand the fact of case is on better footing than the case of **G.M.Tank** (supra). In the case cited above, petitioner/employee was acquitted in criminal proceeding where in the present case, the closure report was submitted having no involvement of the petitioner.

[7] It is reiterated that the departmental enquiry on two charges is based on the criminal case and when the criminal case against the petitioner has been closed due to no material, the basis of initiating departmental enquiry does not survive. It is pointed out that the impugned orders including, the inquiry report, termination order and rejection of the three appeals be set aside and petitioner be reinstated into service with all service benefit including back wages.

[8] Mr.S.Niranjan, learned Government Advocate submits that proceedings in criminal Court and departmental enquiry are different. Acquittal in criminal case cannot be the ground of

terminating the departmental proceedings. Both proceedings are independent and in such situation, it is submitted that closure of the FIR case against the petitioner does not mean that the departmental proceedings on the basis of the FIR is illegal and petitioner failed to bring out any infirmity in the inquiry report and hence, the termination order, the order in the three appeals, do not warrant any interference from this Court.

[9] This Court has perused the materials on record and provisions of law and settled principles of law in this regard. It is settled law that departmental proceedings and criminal proceedings on the same fact can continue independently and acquittal in criminal case does not ipso facto warrant closure of departmental proceedings. Even after closure/discharge/acquittal in criminal case, departmental proceeding can still continue and in some case the employee may be found guilty. In the light of the above proposition of law, we have to examine the facts of the present case. On perusal of the memo of charge dated 25.7.2022, two charges are made against the petitioner (i) for involvement in FIR No.45(3) 2022, and (ii) for detaining in custody thereby implying misconduct and dereliction of duty.

[10] It is admitted fact that the FIR case against the petitioner has been closed upon filing of the closure report. It is stated that there is no materials against the petitioner for his involvement in the FIR case.

[11] This Court has perused the inquiry report and in para 7, it is stated that there is no material for involvement of the petitioner in the FIR case. However, in the concluding part, it is stated that gross misconduct and dereliction of duty as member of a disciplined force is held proved. The disciplinary authority seems to be carried away by the last part of the inquiry report that charge

is held proved, but has miserably failed to examine other portion of the inquiry report completely absolving the petitioner.

[12] If the Disciplinary Authority or any of the appellate authorities have considered the inquiry report minutely, they could have come to the finding that charge is not made out against the petitioner. In such situation, the concluding part of the finding of the inquiry report is held to be erroneous. Accordingly, the impugned order dated 20.10.2022 issued by the Commandant, 3rd IRB and the three appellate orders of IGP, Addl DGP and DG dated 17.11.2022, 28.12.2022 and 13.2.2022 are set aside.

[13] In the conclusion, petitioner be reinstated to service with all consequential benefits and period of suspension and termination till date shall be deemed to be in service. However, petitioner may submit representation for back wages and same shall be considered as per law.

With these observations, the writ petition is allowed.

JUDGE

Priyojit

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PRIYOJIT
SINGH

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