

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 4869 OF 2022 (S-KSAT)

BETWEEN:

SRI MOHAMMED SADIQ
S/O KUDDU SAB
AGED ABOUT 69 YEARS
RETRIED TAHSILDAR
TALUK OFFICE, SORABA
SHIMOGA DISTRICT
R/O TANK MOHALLA
1ST CROSS, SHIMOGA

...PETITIONER

(BY SRI. SREEDHARA H.R, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE
M.S BUILDING
BANGALORE-560 001.
2. REGISTRAR
KARNATAKA LOKAYUKTHA
M.S BUILDING
BANGALORE-560 001.

...RESPONDENTS

(BY SRI. HARISHA A.S, AGA FOR R1,
SRI. K. PRASANNA SHETTY, ADVOCATE FOR R2)

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PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE IMPUGNED ORDER DATED 24/02/2021 PASSED IN APPLICATION NO.6250/2019 BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BANGALORE (ANNEXURE-A) AND CONSEQUENTLY ALLOW THE APPLICATION FILED BEFORE THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL BANGALORE AS PRAYED FOR BY THE PETITIONERS (ANNEXURE-B)

THIS PETITION HAVING BEEN RESERVED FOR ORDERS ON 29.06.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K, J.,** MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV ORDER

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

This writ petition is filed by the petitioner-applicant assailing the order dated 24.02.2021 passed by the Karnataka State Administrative Tribunal, Bengaluru (for short, 'the Tribunal'), in Application No.6250/2019, whereby the Tribunal dismissed the application preferred by the petitioner and affirmed the penalty order dated 21.03.2019 passed by respondent No.1 in so far as the petitioner is concerned.

2. The brief facts, insofar as they are necessary for adjudication and disposal of the present writ petition, are that the petitioner, while serving as Tahsildar, a complaint came to be lodged on 30.11.2007 by one Sri B.N. Muralidhar, a retired

Revenue Inspector, before the Lokayukta Police against the petitioner and one Sri Vishwanath B., alleging that the petitioner, in concert with said Vishwanath B., had demanded illegal gratification of Rs.2,000/- and Rs.500/- respectively for facilitating the encashment of surrendered leave and for preparing bills relating to pensionary benefits.

3. Pursuant to the said complaint, the Lokayukta Police, on the very same day, organized a trap operation against the petitioner. After drawing up the entrustment mahazar/panchanama, the complainant, accompanied by the police officials, shadow witness and panch witnesses, proceeded to the office of the petitioner, where the trap proceedings were conducted. Upon completion of the investigation, the Lokayukta Police filed a charge sheet against the petitioner for offences punishable under the provisions of the Prevention of Corruption Act, 1988.

4. Consequent thereto, the Government, in exercise of its powers under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, entrusted the matter to the Lokayukta for conducting a departmental enquiry.

The enquiry officer framed the following charge against the petitioner/DGO-1 and one Vishwanath. B/DGO-2:

" That you DGO-1 Mohammed Sadig, and you DGO-2 Vishwanath B. while working as the then Tahasildar, and Shirastedar, respectively at Soraba Taluk Office in Shimoga district demanded a bribe of Rs. 2,000 and 500 respectively from the complainant namely B.N. Muralidhar s/o Narayanaiah, Rtd., Revenue Inspector to prepare bills of his retirement benefits and on 30/11/2007 you DGO-1 and 2 accepted bribe of Rs.2,000./- and Rs.500/- respectively from the complainant to do official favour and thereby committed misconduct by failing to maintain absolute integrity and devotion to duty which act is unbecoming of a Government Servants and thus you committed misconduct as enumerated u/R 3(1)(i) to (iii) of the Karnataka Civil Service (Conduct) Rules, 1966."

5. Pursuant thereto, an enquiry was held and, upon consideration of oral and documentary evidence placed on record, the Enquiry Officer, by report dated 04.10.2017, recorded a finding that the charge levelled against the petitioner stood proved and as against said Vishwanath - DGO-2, it was abated on account of his death on 02.04.2011. Accordingly, submitted the enquiry report to the Government.

6. Upon receipt of the enquiry report, a copy thereof was furnished to the petitioner and a second show-cause notice was issued calling upon him to submit his explanation. After considering the reply submitted by the petitioner, the Government, by order dated 21.03.2019, imposed upon him the penalty of permanent withholding of 25% of the pension payable to him. In the interregnum, the petitioner came to be acquitted in the criminal proceedings arising out of the very same trap in Special Case No.3/2009 pending on the file of the Special Judge, Shivamogga, by judgment dated 02.11.2016. Aggrieved by the penalty order dated 21.03.2019 passed by respondent No.1, petitioner preferred Application No.6250/2019 before the Tribunal seeking appropriate reliefs.

7. The Tribunal, upon consideration of rival submissions advanced by the parties and on perusal of the material available on record, by its order dated 24.02.2021, dismissed the application. Being aggrieved by the said order passed by the Tribunal, the petitioner has preferred the present writ petition.

8. Heard learned Counsel Sri. Sreedhara H.R, for the petitioner, learned Additional Government Advocate Sri.

Harisha. A.S., for respondent No.1-State and learned counsel Sri. K. Prasanna Shetty, for respondent No.2-Karnataka Lokayukta. Perused the records and the material placed before us.

9. Learned Counsel appearing for the petitioner would contend that the findings recorded by the Enquiry Officer and affirmed by the Tribunal are wholly unsustainable in law and on facts, being contrary to the material available on record. The three fold contentions of the learned counsel are that, in view of acquittal of the petitioner in Spl. Case No.3/2009 passed by the Special Judge, Shivamogga on 02.11.2016, in the similar set of facts, evidence and witnesses and the said acquittal having attained finality, the disciplinary proceedings could not have been sustained. Learned counsel would submit that where the criminal case and the departmental enquiry are founded on identical facts and common evidence, an acquittal in the criminal case would render the findings recorded in the disciplinary proceedings unsustainable.

10. The second contention of the learned counsel is that, the complainant had preferred a single application seeking sanction of surrender leave benefits and preparation of bills

towards annual increment and stagnation increment, claiming a total amount of Rs.38,681/- and that, upon scrutiny of the claim, it was found that the amount sought was in excess of what was actually admissible. According to the petitioner, the complainant was entitled only to a sum of approximately Rs.30,000/- under the applicable rules and calculations and the same was duly informed to the complainant by the petitioner. However, the complainant allegedly insisted that the entire amount claimed by him be sanctioned without regard to its admissibility. When the petitioner declined to accede to such request and refused to sanction the excess amount claimed, the complainant, actuated by vengeance and ill-will, lodged a false complaint against the petitioner before the Lokayukta Police.

11. Lastly, he contended that, the petitioner had retired from service on 30.04.2008, whereas the charge memorandum came to be issued only on 03.02.2011, nearly four years after the alleged incident. According to the learned counsel, the inordinate and unexplained delay in initiating disciplinary proceedings is indicative of malafides and has caused serious

prejudice to the petitioner. With these submissions, he prays to allow the petition.

12. *Per contra*, learned Additional Government Advocate appearing for respondent No.1-State and learned counsel for respondent No.2-Lokayukta support the impugned order and contend that the departmental enquiry was conducted in accordance with law and by following the principles of natural justice. It is submitted that the evidence of the complainant, shadow witness and Investigating Officer clearly establishes the demand and acceptance of illegal gratification by the petitioner. The positive phenolphthalein test and recovery of tainted currency from the file kept in the almirah behind the chair of the petitioner further substantiate the charge. It is contended that the defence evidence has been duly considered and rejected for valid reasons and that the findings recorded by the Enquiry Officer, as affirmed by the Tribunal, are based on legal evidence and do not warrant interference.

13. It is further contended that the acquittal of the petitioner in Special Case No.3/2009 has no bearing on the disciplinary proceedings, as the standard of proof applicable in

a criminal trial is distinct from that governing departmental enquiries. It is submitted that acquittal in a criminal case does not *ipso facto* result in exoneration in disciplinary proceedings. According to the respondents, the strict rules of evidence are inapplicable to departmental enquiries and, unless prejudice is demonstrated, alleged procedural irregularities do not vitiate the enquiry. It is lastly contended that the scope of judicial review under Articles 226 and 227 of the Constitution is limited and this Court cannot re-appreciate the evidence or substitute its own findings for those recorded by the Enquiry Officer and affirmed by the Tribunal. Accordingly, they pray for dismissal of the petition.

14. In the light of the rival submissions and upon perusal of the records secured from the Tribunal, the following point arises for our consideration:

"Whether the Tribunal was justified in dismissing Application No.6250/2019 and affirming the penalty order dated 21.03.2019 passed by respondent No.1, imposing the penalty of permanent withholding of 25% of the pension payable to the petitioner?"

15. At the outset, it is seen that the trap was laid against the petitioner on 30.11.2007 and pursuant thereto, disciplinary proceedings were entrusted to the Lokayukta under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. The enquiry officer has framed the article of charge on 03.02.2011 as stated supra.

No doubt there is a delay of 3 years and above while framing the articles of charges against the petitioner, however, the charge memo was issued within 4 years and as such, the same does not bar the initiation of enquiry proceedings against the petitioner.

16. In support of the charge, the Presenting Officer examined three witnesses, namely, PW.1-the complainant, PW.2-the shadow witness, and PW.3-the Investigating Officer, and marked fourteen documents as Exhibits P1 to P14. The petitioner, in addition to cross-examining the disciplinary authority's witnesses, entered defence and examined himself as DW.1 and marked twenty-one documents as Exhibits D1 to D21.

17. Upon careful appreciation of evidence of PWs.1 to 3, it emerges that PW.1, the complainant, has consistently deposed that the petitioner demanded a sum of ₹2,000/- as illegal gratification for facilitating the encashment of surrendered leave and for preparing bills relating to pensionary benefits. PW.1 further stated that he lodged a complaint before the Lokayukta Police Station on 30.11.2007, which has been marked as Ex.P1. Pursuant thereto, an entrustment mahazar was drawn and a trap was laid in the office of the petitioner on the very same day.

18. According to PW.1, when he visited the office of the petitioner, the latter reiterated the demand for illegal gratification, whereupon the tainted currency notes were handed over and received by the petitioner, who kept the same in the file and kept in the Almirah. Immediately thereafter, the pre-arranged signal was given to the Lokayukta Police, who conducted the trap proceedings. The hands of the petitioner were subjected to phenolphthalein test, which yielded positive results, and the tainted currency notes were thereafter recovered from the file which was kept in the Almirah.

19. The testimony of PW.1 finds substantial corroboration from the evidence of PW.2, the shadow witness, who has supported the case regarding the demand and acceptance of illegal gratification. PW.3, the Investigating Officer, has also deposed regarding the trap proceedings, the recovery of the tainted currency notes and the demand and acceptance of bribe amount by the petitioner. The evidence of PWs.1 to 3 is consistent and mutually corroborative, and clearly establishes the demand and acceptance of illegal gratification by the petitioner, as well as the recovery of the tainted currency notes from his possession.

20. The defence of the petitioner that the complainant actuated by ill-will and out of vengeance, lodged a false complaint against him, has no legs to stand for the reason, it is his specific case that, on the date of the incident, the complainant visited his office and forcibly thrust the tainted currency notes into his hands, resulting in the phenolphthalein test yielding positive results.

21. Though DW.1 has denied the alleged demand of illegal gratification and the meeting between the complainant and the petitioner, the recovery of the tainted currency notes

from the file kept in the almirah at petitioner's office at his instance remains undisputed. Further, nothing substantial has been elicited in the cross-examination of PWs.1 to 3 to discredit their testimony regarding the demand, acceptance and recovery of the tainted amount. It is well settled that in disciplinary proceedings, the charge need not be proved beyond reasonable doubt and can be held established on the touchstone of preponderance of probabilities.

22. This Court is unable to accede to the contention of the learned counsel for the petitioner that, merely because the petitioner has been acquitted in the criminal proceedings on the basis of the same charge and substantially the same evidence, the disciplinary proceedings cannot be sustained. The said issue is no longer *res integra* and stands concluded by a catena of decisions of the Hon'ble Supreme Court, more particularly, in **SHASHI BHUSHAN PRASAD VS. INSPECTOR, CENTRAL INDUSTRIAL SECURITY FORCE AND OTHERS**, reported in **(2019) 7 SCC 797**. Paragraph No.19 of the said judgment, which is relevant for the purpose of the present case, reads thus:

"19. We are in full agreement with the exposition of law laid down by this Court and it is

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

23. In the case on hand, as discussed above, a careful consideration of the evidence of PWs.1 to 3 and Exhibits P.1 to P.14 clearly establishes the charge levelled against the petitioner. The said evidence has been duly appreciated by the Enquiry Officer and the Tribunal. Having regard to the nature and gravity of the misconduct proved, namely, acceptance of illegal gratification from the complainant for sanction of surrender leave benefits and preparation of bills towards annual increment and stagnation increment, claiming a total amount of Rs.38,681/-, the penalty imposed by the disciplinary authority cannot be said to be disproportionate. We, therefore, find no ground to interfere with the enquiry report, the order of penalty, or the impugned order passed by the Tribunal. Accordingly, we answer the point raised above in the *affirmative* and the writ petition stands ***dismissed***.

**SD/-
(S.G.PANDIT)
JUDGE**

**SD/-
(RAJESH RAI K)
JUDGE**

PKS/K