



CNR: KAHC010691392023

NC: 2026:KHC:36952
WP No. 198 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 198 OF 2024 (S-RES)

BETWEEN:

S N DEVARAJA
S/O CHIKKANARAYANA REDDY
AGED ABOUT 68 YEARS
R/A NO 6, MATHRUSHREE NILAYA
7TH A CROSS, BASAVANAPURA MAIN ROAD
K R PURAM, BANGALORE - 560 036
SR. CITIZEN BENEFIT NOT CLAIMED

...PETITIONER

(BY SRI. SRINIVASA K., ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KPTCL, CORPORATE OFFICE
CAUVERY BHAVAN
BANGALORE 560009
2. THE DIRECTOR (A AND HR)
KPTCL CORPORATE OFFICE,
CAUVERY BHAVAN,
BANGALORE - 560009
3. THE GENERAL MANAGER (A AND HR)
BESCOM, CORPORATE OFFICE
K R CIRCLE, BANGALORE - 560001

...RESPONDENTS

(BY SRI. ASHWIN G.RAJ., ADVOCATE FOR R1 TO R3)

Digitally signed
by KIRAN
KUMAR R
Location: HIGH
COURT OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO- QUASH THE IMPUGNED PUNISHMENT ORDER BEARING No.KA.VI.PRA.NI.NI./BI21/17313/2010-11 DATED 28.03.2023 PASSED BY THE R2 VIDE ANNEXURE-L TO THE WRIT PETITION. DIRECT THE RESPONDENTS TO PAY THE FULL PENSION AND ARREARS OF COMMUTATION FROM 01.02.2016 INCLUDING THE 25 PERCENT OF PENSION THAT HAS BEEN WITH HELD BY VIRTUE OF THE IMPUGNED ORDER ALONG WITH 12 PERCENT INTEREST ON THE ENTIRE TERMINAL BENEFITS FROM 01.02.2016 TILL THE DATE OF PAYMENT OF TERMINAL BENEFITS. DIRECT THE RESPONDENTS TO TREAT THE SUSPENSION PERIOD OF THE PETITIONER FOR 9 MONTHS FROM 20.05.2010 AS ON DUTY AND TO PAY THE FULL SALARY FOR THE AFORESAID PERIOD ALONG WITH 12 PERCENT INTEREST.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

The petitioner has filed this writ petition seeking the following reliefs:

- (a) *Issue a writ of certiorari quashing the impugned punishment order bearing No.21/17313/2010-11 dated 28.03.2023 passed by the 2nd respondent vide Annexure-L to the writ petition.*
- (b) *Issue a writ of mandamus directing the respondents to pay the full pension and arrears of*



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commutation from 01.02.2016 including the 25% of pension that has been with held by virtue of the impugned order along with 12% interest on the entire terminal benefit from 01.02.2016 till the date of payment of terminal benefits.

- (c) Issue a writ of mandamus directing the respondents to treat the suspension period of the petitioner for 9 months from 20.05.2010 as on duty and to pay the full salary for the aforesaid period along with 12% interest.*
- (d) Issue such other writ or order or direction as this Hon'ble Court may deem fit to pass under the facts and circumstances of the case to meet the ends of justice and equity.*

2. Brief facts leading rise to the filing of this writ petition are as follows:

2.1. The petitioner was working as Accounts Officer and was transferred to TL & SS Peenya Division, based on which, he had reported for duty on 01.07.2009. Earlier to that, a bill pertaining to A.V.Anand, an electrical contractor was submitted in the division for release of his bill amount. However, since there was some technical issue in the bill,



it was resent along with audit observation. The said bill was lying in the technical wing for about 8 and half months. Once, the bill was resent by attending audit observation, the petitioner immediately attended the said bill and forwarded it to the concerned section for payment. Thus, he had attended and forwarded the bill of the complainant on the very same day on 31.03.2010. However, the complainant with oblique and ulterior motive and purely for vengeance against the petitioner had complaint to the Lokayukta about the demand for illegal gratification. Based on the said complaint, the petitioner was taken into custody in the form of raid by the Lokayukta Police on 20.05.2010. The criminal and departmental proceedings were initiated against the petitioner by placing him under suspension. The ARE4, Lokayukta had issued an articles of charges dated 11.12.2012 and initiated a departmental enquiry proceedings at the same time, the criminal proceedings initiated by the lokayukta police had ended in acquittal by



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judgment dated 27.02.2016. In the departmental enquiry proceedings inspite of clear admission by the witnesses regarding non pendency of the work, and absence of any demand for money the ARE4 had mechanically submitted his report holding that the petitioner is guilty of the charge. The Upa Lokayukta had recommended for imposition of the punishment of withholding 50% of pension. However, respondent No.2 after issuing the 2nd show cause notice and after taking the reply from the petitioner and though the legal and positive reasons and grounds were advanced in the reply. The petitioner submitted a reply to the 2nd show cause notice. Still respondent No.2 had passed a punishment order dated 28.03.2023 thereby ordering for withholding of 25% of pension of the petitioner. The petitioner was paid with the terminal benefits in the month of September 2023. However, his request for release of the entire terminal benefits including 25% pension and commutation amount that was withheld was not considered. The petitioner



aggrieved by the order of punishment, filed this writ petition.

3. Learned counsel for the respondents filed the statement of objections denying the averments made in the complaint. It is contended that on the basis of the complaint submitted by the complainant, a criminal case was registered against the petitioner, wherein the petitioner has demanded and accepted illegal gratification from the contractor. Respondent No.3-Bangalore Electricity Supply Company Limited (BESCOM) is the Public Registered under the Companies Act owned by the Government of Karnataka. BESCOM is entrusted with duty of imposing minor penalties under Karnataka Electricity Board Employees' (Classification, Disciplinary Control and Appeal) Regulations, 1987 on incidents of disobedience and misconduct by employees in order to maintain discipline working force and an efficient distribution system in the area of supplying electricity. BESCOM held



an enquiry and in the enquiry the charges levelled against the petitioner are proved. The appointing authority issued 2nd show-cause notice along with the findings of the enquiry officer and sought for an explanation. The petitioner submitted a reply. The respondents being dissatisfied with the explanation offered by the petitioner has passed the impugned order. It is contended that the impugned order passed by the respondent is just and proper. Hence, prays to dismiss the writ petition.

4. Heard the arguments of the learned counsel for the petitioner and also the learned counsel for the respondents.

5. Learned counsel for the petitioner submits that as on the date of charge, there was no work was pending before the petitioner. The complainant has filed a false complaint against the petitioner in order to take revenge against the petitioner. He submits that the criminal case was registered against the petitioner and the petitioner



was acquitted in a criminal case. He also submits that the witnesses examined in the criminal case are same witnesses examined before the enquiry authority. He submits that the respondent without considering the said aspect, has committed an order in passing the impugned order of punishment. Hence, on these grounds, he prays to allow the writ petition.

6. *Per contra*, learned counsel for the respondents submits that the charges levelled against the petitioner was serious in nature. He also submits that on the basis of the complaint, a criminal case was registered against the petitioner. He submits that merely acquittal in the criminal case does not dispense. To buttress his arguments, he has placed reliance on the judgment of the Hon'ble Apex Court in the case of ***State of Karnataka and Another Vs. Umesh***¹ and also the judgement of the Hon'ble Apex Court in the case of ***Airports Authority of India Vs.***

¹ (2022) 6 SCC 563



Pradip Kumar Banerjee². He also submits that, the petitioner was acquitted in the criminal case based on the ground of benefit of doubt and not in order of acquittal. He submits that the respondents have rightly passed the impugned order. Hence, on these grounds, he prays to dismiss the writ petition.

7. Perused the records and considered the submissions of the learned counsel for the parties.

8. There is no dispute that the petitioner was working as an Accounts Officer. Sri A.V.Anand, the Electrical contractor has submitted a complaint against the petitioner to the Lokayukta based on the complaint submitted by Sri A.V.Anand alleging that the petitioner has demanded illegal gratification for clearing the bill. On the basis of the complaint submitted by Sri A.V.Anand, a criminal case was registered against the petitioner for the offence punishable under Section 13(2) of the Prevention

² Civil Appeal No.8414/2017, disposed of on 04.02.2025



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of Corruption Act, 1988. The petitioner has produced the copy of the judgment passed in Special C.C.No.325/2010 dated 27.02.2016. Based on the raid conducted by the Lokayukta Police and on sanction given by respondent No.2, ARE-4 issued articles of charges alleging committing of misconduct as enumerated under Regulation 3 of KEB Employees Service Regulations. The ARE-4, after holding the proceedings, after recording the evidence, had submitted his findings thereby holding that the charges levelled against the petitioner are proved. Based on the findings of the Enquiry Officer, Upa Lokayukta had written to respondent No.2 recommending imposition of punishment withholding 50% of his pension. On 18.01.2021, a second show-cause notice was issued to the petitioner by respondent No.2 and called upon to submit his reply to the findings of the Enquiry Officer and the petitioner, in turn, had submitted a suitable reply to the findings and requested to reject the findings of Enquiry Officer and to drop the further proceedings. Respondent



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No.2 had passed an order of punishment, thereby withholding permanently 25% of the pension amount of the petitioner which includes 25% of commutation. Criminal proceedings initiated by Lokayukta Police has ended in acquittal by the judgment dated 27.02.2016.

9. The charges framed in the enquiry proceedings and the charges framed in the criminal proceedings are one and the same. It is necessary to examine and compare the charges and witnesses examined in both the proceedings, which read as follows:

<i>Points for determination in Spl.C. No.325/2010</i>	<i>Articles of charge and statement of imputations in the Enquiry Report</i>
<i>1. Whether the prosecution has established that on 20.05.2010 the accused being public servant working as Accounts Officer in the office of the Executive Engineer, TL & SS Division, Sharavathi Resource Centre, Peenya I Stage, Bengalurum in order to extend official favour to PW 3 Anand i.e., in the matter of passing of bill of PW 3 demanded and accepted illegal gratification of Rs 500/-at MO 21 in his office between 2.25 and 3.07 p.m from PW 3 and thereby committed the</i>	<u>CHARGE NO.1</u> <i>That, you Sri S.N. Devaraju, the DBO, while working as Accounts Officer, PIN No. 12769 in T.L. and S.S. Division, KPTCL, Peenya the complainant namely Sri A.V. Anand, the Electrical Contractor submitted bill on 16-05-2009 for Rs.85,884/-towards completed contract work of fixing street lights at SRS stores yard Peenya and requested you on several times to attend the bill and about 9 months prior to 24-03-2010 you took bribe of Rs.500/- from</i>



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offence punishable under section 7 of the Act?

2. Whether the prosecution has established that on the above date, place and time the accused being public servant abused his position as public servant and obtained pecuniary advantage of Rs 500/- at MO 21 without public interest from PW 3 which amounts to criminal misconduct as defined under section 13(1)(d) of the Act and thereby committed the offence punishable under section 13(2) of the Act?

the complainant and further, on 20-05-2010 you took further bribe of Rs.500/- from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3 Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988.

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant namely Sri A.V. Anand S/o M.G. Ashwath Narayan, resident of Rajajinagar in Bangalore is the electrical contractor being the proprietor of M/s Vasanth Anand Associates. He had undertaken work for fixing street lights at SRS Stores yard in Peenya division of KPTCL on contract for Rs.85,884/-. After completion of the said work and also after completing all formalities, he submitted bill on 16-05-2009 in the office of the DBO. But, his bill was not attended inspite of several requests. The bill was kept pending till 24-03-2010. Again on 24-03-2010 the complainant requested the DBO to attend the bill and then he paid bribe of Rs.500/-on demand made by the DBO. Subsequent to this date also the DBO did not attend the bill of the complainant. Therefore, on 20-05-2005 the complainant lodged a complaint before the



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	<i>Lokayukta Police Inspector of Bangalore City Division (Herein after referred to as the Investigating Officer, for short "the I.O.") The I.O. registered the complaint in Cr. No.18/2010 for the offences punishable U/s & 13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988 and I.O. took up the investigation. On 20-5-2010, the DGO was trapped at his office while receiving tainted amount of Rs. 500/- from the complainant. The I.O. seized the tainted amount from the DBO after following post trap formalities. The DBO failed to give satisfactory or convincing reply about possession of the tainted amount. The I.O. recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the I.O. showed that the DBO has committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Government servant. As the materials on record showed, prima facie case about DBO receiving bribe for discharging his duty as Public Servant, a suo-moto investigation was taken up U/S 7(2) of the Karnataka Lokayukta Act against the DBO. An Observation Note was sent to the DBO calling for his explanation. The reply given by the DBO was not convincing and not satisfactory to drop the proceedings. As there was a prima facie case showing and</i>
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	<i>DBO has committed mis-conduct as per Rules 3(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988. A report U/S 12(3) of Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DBO. Accordingly, the Competent Authority Disciplinary Proceedings against DBO and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of Karnataka Electricity Board Employees (Classification, Discipline, Control and Appeal) Regulations. Hence, the Charge.</i>
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10. The learned Sessions Judge, while acquitting the petitioner from the charges levelled against him, has recorded findings in paragraph No.25 as under:

"25. To sum up, testimony of PW 3 is not worthy of credence and acceptance to hold that in order to extend official favour the accused demanded and accepted MO 21. Sheet no.3 of Ex P19 would point out that the official work of PW 3 was not pending with the accused as on the date of trap. Though recovery of MO 21 stands established, in the absence of proof of demand and acceptance of MO 21 presumption under section 20 of the Act cannot be raised. Thus, upon appreciation of the entire oral and documentary evidence on record I hold



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that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt for the offences with which he is charged. Accordingly, extending the benefit of doubt to the accused I answer point nos 1 and 2 in the negative.

Consequently, the petitioner was acquitted of the offence defined under Section 13(1)(d) which is punishable under Section 13(2) of the Prevention of Corruption Act, 1988.

11. Admittedly, PW3 in the criminal proceedings is none other than the complainant in the present case. The witnesses examined before the Enquiry Officer and before the learned Sessions Judge are as follows:

Name of the witness	Witness No. before the learned Sessions Judge	Witness No. before the Enquiry Officer
Meer Ansar Ali	PW1	PW2
Vishnu Prasad	PW2	-
A.V.Anand	PW3	PW1
Shivayogi Kalasad	PW4	-
K.C.Lakshminarayana	PW5	PW3

12. In the instant case, departmental proceedings and criminal cases are based on identical and similar sets



of charges. It is true that, the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of case lodged against the petitioner on the basis of evidence and material collected against her during the enquiry and investigation as reflected in the charge sheet, and factors mentioned are one and the same. On the other hand, the charges, evidence, witness, and circumstances are one and the same. In the present case, the criminal and the departmental proceedings are already noticed or granted on the same set of facts, namely raid conducted on the petitioner's office and recovery of MO21 from him. From the perusal of the judgment passed in the criminal case, the Sessions Court came to a conclusion that the Prosecution has failed to prove the guilt against the petitioner beyond reasonable doubt and acquitted the petitioner by its judicial pronouncement with the finding that the charges have not been proved. It is to be noted that, judicial



pronouncement was made after regular trial and on hot contest.

13. The Hon'ble Apex Court in the case of ***Maharana Pratap Singh Vs. State of Bihar and Others³***, held as follows:

"Issue No.2-

The aforesaid discussion on the first issue seals the fate of the respondents. However, since arguments were advanced in respect of this issue too, we propose to briefly answer the same.

47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive."

³ Civil appeal No.5497 of 2025,



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14. The Hon'ble Apex Court reiterated the findings recorded in the cases of **G.M.Tank Vs. State of Gujarat and Others⁴** (supra) and **Ramlal Vs. State of Rajasthan⁵** (supra), reiterated the exposition of law and further held in para No.48, and para No.50, which reads as follows:

"48. To assess the degree of similarity between the charges, evidence, witnesses, and circumstances in the disciplinary and criminal proceedings, it is indeed crucial to review the materials placed before the Court where such an issue arises. However, we regret, absence of the departmental file has disabled us from looking into the same.

XX XX XX

50. The judgment acquitting the appellant reveals that the prosecution "miserably failed to prove its case beyond reasonable doubt" as both the informant and PW-2 refused to identify the appellant in court. This discussion confirms that the appellant's acquittal was based not on mere technicalities. In

⁴ (2006) 5 SCC 446

⁵ (2024) 1 SCC 175



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Ram Lal (supra), this Court held that terms like "benefit of doubt" or "honourably acquitted" should not be treated as formalities. The Court's duty is to focus on the substance of the judgment, rather than the terminology used."

The Hon'ble Apex Court considered all the judgments relied upon by the learned counsel for the petitioner in ***Maharana Pratap Singh*** (supra).

15. Admittedly, in the instant case, charges, evidence, witnesses and circumstances in both departmental enquiry and criminal proceedings are identical. The Disciplinary Authority, without considering the judgment passed in the criminal proceedings, has passed an order of punishment. The impugned order passed by the Disciplinary Authority would be unjust, unfair and perverse, and is contrary to the exposition of law laid down by the Hon'ble Apex Court in the cases of ***G.M.Tank*** (supra), ***S. Bhaskar Reddy*** (supra).



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16. Learned counsel for the respondent has placed reliance on the judgments of the Hon'ble Apex Court in the case of **Pradip Kumar Banerjee** (supra) and **Karnataka Power Transmission Corporation Limited Vs. Sri C. Nagaraju**⁶.

17. In the case of **Pradip Kumar Banerjee** (supra), the complainant was not examined. In the said case, the demand and acceptance was proved. Admittedly, in the instant case, as of the date of alleged trap, no case was pending before the petitioner and complainant was examined in the instant case. The said decision is not applicable to the case on hand.

18. There is no dispute that the set of rules and evidence on criminal procedure would not apply to the departmental proceedings. The degree of proof which is necessary to order of conviction, is necessary to degree of proof, necessary to record commissioner of delinquency

⁶ AIR 2019 SC 4308



rule relating to the appreciation of evidence in the two proceedings, is also not too similar in the criminal law.

19. The burden of proof is on the prosecution unless the prosecution is able to prove guilt of the accused beyond reasonable doubt. He cannot be convicted by the court of law. On the other hand, in departmental inquiry, a penalty be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability". The acquittal of the petitioner by the learned Sessions Judge that does not factually absolve him from the liability under the disciplinary jurisdiction of the State, when the charges, evidence, witness and circumstances are not similar. However, when the departmental enquiry and the criminal proceedings are identical or substantially similar, there cannot be acquittal in one proceedings and punishment under another proceedings.

20. This Court is in full agreement with the exposition of law laid down by the Hon'ble Apex Court in



the cases of ***G.M. Tank*** (supra), ***Ramlal*** (supra), and ***Maharana Pratap Singh*** (supra). The said judgments cover the case on hand. The set of judgments are squarely applicable to the case on hand.

21. The Disciplinary Authority, without considering the said aspect, has passed the impugned order. The impugned order passed by the disciplinary authority is in contrary to the exposition of law referred to supra. The impugned order is arbitrary, erroneous and the same is liable to be quashed.

22. In view of the above discussion, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***;
- ii. The impugned punishment order dated 28.03.2023 passed by respondent No.2 vide Annexure-L is hereby ***quashed***;
- iii. The respondents are directed to pay the full pension and arrears of commutation from



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01.02.2016 including the 25% of pension that had been withheld by virtue of the impugned order along with 6% interest p.a., on the entire terminal benefits from 01.02.2016 till the date of payment of the terminal benefits;

- iv. The respondents are directed to treat the suspension period of the petitioner for nine months from 20.05.2010 as on duty and to pay the full salary for the aforesaid period along with 6% interest p.a.;
- v. Pending IA(s), if any, shall stand disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

SSB & PA

List No.: 1 Sl No.: 46