

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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AND

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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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WRIT PETITION No. 1502 of 2005

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ORDER: (per Hon'ble Sri Justice G. Chandraiah)

Orders dated 08.07.2002 in OA.No.6241 of 1992 on the file of the A.P. Administrative Tribunal are questioned before this Court. The petitioners are the respondents and the respondent herein is legal heir of the applicant in the O.A.

2. The applicant was a Police Constable in the Armed Reserve, Karimnagar District. Alleging involvement in a criminal case when he was deputed to work in Srirampur Police Station, disciplinary proceedings came to be initiated against the applicant. Also, a criminal case in Crime No.10 of 1990 of Srirampur Police Station came to be registered for the offence punishable under Section 379 IPC, which was taken on file as C.C.No.234 of 1990 on the file of Judicial Magistrate of First Class, Sultanabad. The learned Magistrate, after due trial, acquitted the applicant vide his judgment dated 03.04.1991. However, the 3rd respondent vide proceedings dated 23.09.1991 imposed the punishment of removal from service on the applicant. On appeal before the 2nd respondent/appellate authority, the punishment was confirmed. Questioning his removal from service though he was acquitted in the criminal case, the applicant approached the Tribunal. The learned Tribunal relied on the judgment rendered in **M. Paul Anthony v. Bharat**

Gold Mines^[1], wherein the Supreme Court held as under:

“... if disciplinary proceedings and criminal proceedings are based on identical set of facts and witnesses, without there being an iota of difference,

the disciplinary proceedings cannot be proceeded with..”

The Tribunal held that no witness has supported the prosecution's case and the prosecution failed to prove its case and the criminal case ended in acquittal on 03.04.1991 i.e., much prior to the removal orders dated 23.09.1991 passed by the departmental authorities, and hence In view of the Hon'ble Supreme Court judgment in **Paul Anthony (1 supra)**, the disciplinary authority should not have proceeded with the case and imposed the punishment. The Tribunal, while allowing the O.A, directed the authorities to reinstate the applicant into service forthwith along with all service benefits including half of the back wages. Aggrieved thereby, this writ petition is filed by the authorities on the ground that the charges against the applicant were proved in the disciplinary enquiry and hence imposition of punishment is correct.

3. Heard.

4. It is not disputed that the charges levelled against the applicant in the disciplinary enquiry as well as the criminal case are one and the same. That being so, when the applicant was acquitted in the criminal case by orders dated 03.04.1991, the action of the authorities in proceeding with the disciplinary enquiry and imposing punishment by orders dated 23.09.1991 is contrary to law as held by the apex Court in **Paul Anthony (1 supra)**. Hence, we see no reason to interfere with the orders of the Tribunal.

5. The writ petition is, accordingly, dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

15th December, 2015
ksm

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[\[1\]](#) (1999) 3 SCC 679