

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5406 OF 2019

Shri Praval Pratap Singh
Age 51 years, Ex-Constable
Railway Protection Force,
Bhusawal Division,
Residing at Chawl No.3, Room No.1,
Old Manish Nagar, Betulkar Pada,
Kalyan (West), Dist: Thane

... Petitioner

V/s.

1. Union of India,
Through the Principal Chief Security
Commissioner, Railway Protection Force
Central Railway, Mumbai CST,
Mumbai – 400 001.
 2. The Chief Security Commissioner,
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001.
 3. The Additional Chief Security Commissioner
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001.
 4. The Divisional Security Commissioner
Railway Protection Force,
Central Railway, Bhusawal Division,
Jalgaon
- ... Respondents

**WITH
WRIT PETITION NO. 5511 OF 2019**

Shri Vikas Singh Rajput
Age 37 years, Ex-Constable
Railway Protection Force,

TRUPTI
SADANAND
BAMNE

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TRUPTI SADANAND
BAMNE
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Thane- Matunga Division,
Residing at Old Itarsi, Ward No.3,
Sardar Patel Pura, Dist. Hoshagabad,
Itarsi- 461 111, Madhya Pradesh

... Petitioner

V/s.

1. Union of India,
Through the Principal Chief Security
Commissioner, Railway Protection Force,
Central Railway, Mumbai CST,
Mumbai – 400 001.
2. The Chief Security Commissioner,
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001.
3. The Additional Chief Security Commissioner
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001
4. Senior Divisional Security Commissioner,
Railway Protection Force,
Central Railway, CSTM,
Mumbai – 400 001.

... Respondents

**WITH
WRIT PETITION NO. 5597 OF 2019**

Shri Vinit Kumar Pandey
Age 37 years, Ex-Constable
Railway Protection Force,
Matunga Cash Guard, Mumbai Division,
Central Railway, Mumbai
residing at Shree Dwarka Dham,
Tilak Nagar, Makan No. 32, BHEL
Simrawari, Jhansi, Uttar Pradesh

... Petitioner

V/s.

1. Union of India,

Through the Principal Chief Security
Commissioner, Railway Protection Force,
Central Railway, Mumbai CST,
Mumbai – 400 001.

2. The Chief Security Commissioner,
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001.
3. The Additional Chief Security Commissioner
Railway Protection Force,
Central Railway, Mumbai CST
Mumbai – 400 001.
4. Senior Divisional Security Commissioner,
Railway Protection Force,
Central Railway, CSTM,
Mumbai – 400 001.

... Respondents

.....

Mr.Vishal Shirke for the Petitioners in all Writ Petitions.

Mr.Ashok D. Shetty for Respondent Nos. 1 to 4 in Writ Petition
No. 5406 of 2019.

Mr.R.R.Shetty with Mr.Sachin B. Patil for the Respondents in Writ
Petition No. 5597 of 2019 and Writ Petition No. 5511 of 2019.

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**CORAM : NITIN JAMDAR &
M.M.SATHAYE, JJ.**

DATE : 24 JANUARY 2024

JUDGMENT (*Per Nitin Jamdar, J.*)

These three writ petitions arise from the same proceeding.
They have been argued together and are disposed of by this common
judgment.

2. The Petitioners were working with the Railway Protection Force. Praval Pratap Singh (Writ Petition No. 5406 of 2019) was working as a head constable in the Railway Protection Force, Bhusawal Division. Vikas Singh Rajput (Writ Petition No. 5511 of 2019) worked as a constable in the Railway Protection Force, Thane – Matunga Division of the Central Railway. Vinit Kumar Pandey (Writ Petition No. 5597 of 2019) was working as a head constable in the Railway Protection Force, Mumbai Division of Central Railway. The Petitioners were removed from service. Their appeals and revision appeals have been dismissed. These orders are challenged by the Petitioners in their respective petitions.

3. A complaint was filed by one Sameer Zaveri, who collected information regarding the illegal activities of personnel of the Railway Protection Force. The information revealed that certain personnel of the Railway Protection Force were cheating railway passengers by creating fake bail bonds. Railway personnel had printed fake bail bonds. Since there was no investigation, Public Interest Litigation (PIL) No. 29 of 2010 came to be filed in this Court, and this Court transferred the case to the Central Bureau of Investigation (CBI). An investigation was carried out by the CBI, and the charge-sheet was filed by the CBI in Special Case No. 14 of 2013 in the Court of Special Judge (CBI) for Greater Bombay. The Petitioners were arraigned as accused along with others. The departmental inquiry was also initiated against the Petitioners, and a

memorandum of the charge sheet dated 17 December 2010 was issued to the Petitioners. The inquiry was held, and the inquiry officer submitted a report that the charges against the Petitioners were proved. The Petitioners submitted their reply to the report of the inquiry officer, and thereafter, the Respondents - Railway Authorities imposed the penalty of removal from service on the Petitioners. The Petitioners filed appeals which were dismissed, and thereafter, the revision appeals were filed, which also came to be dismissed. The Petitioners were removed from service, and the orders of removal from service were confirmed. After dismissal of the revisions, in the criminal trial under the common judgment dated 3 November 2017, the Petitioners came to be acquitted of the charges. After acquittal, the Petitioners submitted representations to the Respondent - the Chief Security Commissioner to review the case and reinstate the Petitioners in view of the order of acquittal. The Respondent - the Chief Security Commissioner rejected the prayer of the Petitioners for reinstatement, observing that the court of departmental inquiry and the criminal trial is different. In the departmental inquiry, the charges have been proved, and therefore, there is no need to review the order of removal from service. Challenging these orders, the Petitioners are before us.

4. We have heard Mr. Vishal Shirke, the learned Counsel for the Petitioners, Mr. Ashok Shetty, the learned Counsel for Respondent Nos.1 to 4 in Writ Petition No. 5406 of 2019 and Mr. R.R. Shetty,

the learned Counsel for the Respondents in Writ Petition Nos. 5597 of 2019 and 5511 of 2019.

5. The facts narrated above are not in dispute. In the departmental inquiry, the Petitioners have been held guilty. Thereafter, the appeals and revision appeals filed by the Petitioners have been dismissed. The Petitioners are seeking setting aside of the order of removal of service and reinstatement only on the basis of the order of acquittal passed by the learned Special Judge.

6. The question of whether a departmental inquiry and a criminal trial can proceed concurrently with identical charges, and the impact of an acquittal in the criminal trial, has been deliberated by the Hon'ble Supreme Court on multiple decisions. Leading decisions being in the cases of *Capt. M. Paul Anthony Versus Bharat Gold Mines Ltd. and Another*¹ and *G. M.Tank Versus State of Gujarat and Others*². The Hon'ble Supreme Court in the case of *Capt. M. Paul Anthony* has referred to the following decisions: *Delhi Cloth & General Mills Ltd. v. Kushal Bhan*³, *Tata Oil Mills Co. Ltd. v. Workmen*, *Jang Bahadur Singh v. Baij Nath Tiwari*⁴, *Kusheshwar Dubey v. Bharat Coking Coal Ltd.*⁵, *Nelson Motis v. Union of India*⁶, *State of Rajasthan v. B.K. Meena*⁷, *Depot Manager, A.P.SRTC v.*

1 (1999) 3 SCC 679

2 (2006) 5 SCC 446

3 AIR 1960 SC 806

4 AIR 1969 SC 30

5 (1988) 4 SCC 319

6 (1992) 4 SCC 711

7 (1996) 6 SCC 417

Mohd. Yousuf Miya.⁸ Legal principles that can be culled out from these decisions as per our respectful opinion are as follows. Proceedings in a criminal case and departmental proceedings operate in separate jurisdictions. In departmental proceedings, where misconduct is under investigation, the disciplinary authority considers various factors such as maintaining discipline and assessing the integrity of the accused employee. The standard of proof required in departmental proceedings is a preponderance of probabilities, whereas in a criminal case, the prosecution must prove the charges beyond a reasonable doubt. However, an exception exists when both proceedings are based on the same facts and share common evidence. While it is common for employers to postpone inquiries until the criminal trial concludes, the principles of natural justice do not mandate waiting for a criminal court decision before taking action against an employee. In cases of grave nature or involving complex questions of fact or law, it is advisable for the employer to await the trial court's decision to avoid prejudicing the employee's defence. Conducting parallel disciplinary and criminal proceedings is not inherently wrong, still, it may be prudent to stay the domestic inquiry if the incident leading to charges is being tried in a criminal court. Simultaneous proceedings are permissible, but if both are based on identical facts and the criminal charge is serious with intricate legal and factual issues, suspending the departmental proceedings until the criminal case concludes is preferable. The determination of the gravity of charges and the complexity of legal

8 (1997) 2 SCC 699

and factual issues in the criminal case depends on the nature of the offence and the evidence collected during the investigation or presented in the charge sheet. It is only if both the departmental and criminal proceedings are grounded in identical facts, charges, evidence, witnesses, and circumstances, and the criminal court finds the appellant not guilty beyond a reasonable doubt, that it would be unjust to uphold the findings of the departmental proceedings. With these legal positions in mind, we will examine the case at hand.

7. The allegations against Praval Pratap Singh were that he failed to maintain the records and register of the court section for the year 2008-2009 and committed various irregularities. In the inquiry, it was revealed that the entries made by Praval Pratap Singh, when tallied with the bail bonds register, resulted in the fabrication of the Railway Register. He was lethargic and careless during his duties. This was the gist of the charges against Praval Pratap Singh. The allegations against Vikas Singh Rajput were that he abused his official position and arrested certain persons as mentioned in the bail bond receipts. He released them on bail without the supervision of any subordinate officer and did not deposit the government money of the bail amount. The amount was misappropriated, as the names of the persons who were arrested by this Petitioner were not found in the Railway Act Register. The allegations against Vinit Kumar Pandey were that he manipulated the serial numbers of the Railway Act Register and inserted the entry regarding the arrest of one person

in the Railway Act Register. He sought to mislead the administration and manipulated important official documents. The Petitioner was negligent in respect of his duties and misappropriated the bail bond amount.

8. In the criminal trial, as it can be seen from the judgment of the learned Special Judge, twelve persons were tried as accused along with the Petitioners. They faced trial for the offences punishable under Sections 120-B, 409, 419, 466, 468, 471 and 420 of the Indian Penal Code and Section 13 (1) (C) & (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988. The prosecution had alleged that the Petitioners were involved in criminal conspiracy and object of which was to cheat the members of the public by abusing their official position as public servants. The prosecution has examined 22 witnesses. Out of them, PW-6, PW-7, PW-10, PW-11, PW-13, PW-14, PW-15 and PW-16 turned hostile and did not support the prosecution. PW-1 was the original Complainant on whose complaint the investigation was carried out. The learned Special Judge, after considering the evidence on record, concluded that the prosecution had failed to prove that after execution of the form from the offenders, the Railway Protection Force staff received a certain amount and misappropriated the same and there was no clinching evidence. Accordingly, the Petitioners and others were acquitted.

9. Inherently, there is a difference between the departmental inquiry and the criminal trial as the standard of proof required in both cases is different. In the present case, it cannot be said that the charges in the criminal trial and the departmental inquiry are identical. In the departmental inquiry, the Respondents, Railway Authorities, were concerned with the maintenance of discipline. In the departmental inquiry, the Petitioners were found to be grossly negligent in not maintaining official records and failed to furnish proper information. The charges, which were proved against the Petitioners in the departmental inquiry, were in respect of negligence of their duty and non-maintenance of the official registers. In the criminal trial, several prosecution witnesses turned hostile. It had to be proved by the prosecution in the criminal trial that the Petitioners had committed the offence of misappropriation and guilt. The learned Special Judge found that the evidence being led by the prosecution fell short of establishing the guilt of the Petitioners. In the departmental inquiry, however, after full opportunity was given to the Petitioners, the inquiry officer found that the charge of non-maintenance of official records was proved.

10. The charges for misconduct in contravention of Rules 146.2 (i), (iv), 146.4, 146.6 (i)(ii)(iii), and 143.7 (ii) of the Railway Protection Force Rules were levelled against the Petitioner, Praval Pratap Singh. Therefore, the charges in the criminal trial and the departmental inquiry in the case of this Petitioner are clearly

different. While working as a dealer in the court section of Railway Protection Force at Kurla, this Petitioner failed to maintain the records and registers of the court section. In the departmental inquiry, the inquiry officer concluded that there were irregularities in the bail bond register. Concluding the departmental inquiry, the inquiry officer proceeded on the preponderance of probabilities, and in the criminal trial, stricter proof was required. Considering this legal position and factual position, the Respondents, Railway Authorities, did not accept the prayer of the Petitioners to reinstate them after the order of acquittal passed in the criminal trial. In the departmental inquiry, it was duly held that the Petitioners were guilty. The appeals and revision appeals were also dismissed. Thereafter, the order of acquittal came to be passed.

11. In these circumstances, we are unable to accept the submission of the learned Counsel for the Petitioners that there was no difference whatsoever between the departmental inquiry and the criminal trial, and upon acquittal from the criminal trial, the Petitioners should have been taken back into service.

12. The learned Counsel for the Petitioners, in the alternative and without reference to the order of acquittal, submitted that the punishment imposed on the Petitioners is harsh and disproportionate, and they should not have been removed from service only because they did not maintain official registers properly.

There is no merit in this contention. The Petitioners were working as constables with the Railway Protection Force. The charges against the Petitioners in the departmental inquiry were negligence of duty and manipulation in the maintenance of records. Considering the position of the Petitioners and the document in question, namely the bail bond register, the punishment of removal from service for the charges proved against the Petitioners cannot be considered harsh and disproportionate. The Respondents, Railway Authorities, conducted the inquiry as highlighted by the complainant, stating the large-scale malpractice in the maintenance of bail bonds by personnel of the Railway Protection Force. These lapses ultimately affected society at large and were not only clerical lapses. In these circumstances, the Respondents, Railway Authorities, rightly imposed the penalty of removal from service. The Respondents were also correct in refusing the Petitioners' request for reinstatement after the order of acquittal and dismissal of the appeals and revision appeals.

13. As far as the challenge to the orders of removal from service and dismissal of the appeals and revision on merits is concerned, we find that there is no scope for interference. The Petitioners were given a full opportunity during the inquiry. Witnesses were examined, and the factual finding was rendered that the Petitioners were guilty of the charges. Considering the scope of the departmental inquiry and the burden of proof, the inquiry officer has taken a

possible view of the matter, and the Respondents, Railway Authorities, after considering the gravity of the charges, have imposed the proper punishment of removal from service. Regarding the Petitioners' appeals and revision, the Appellate and Revisional Authority have rejected them with a reasoned order. It is not possible to sit in further appeal to re-appreciate the evidence and render a factual finding, overruling the one already rendered. The learned Counsel for the Petitioners submitted that in the appeals, there are references to the pendency of the criminal trial as the ground for rejection and contended that the Respondents themselves have admitted that there is no difference between the departmental inquiry and the criminal trial. This submission cannot be accepted. The statement in the appeals cannot be considered as an admission by the Respondents from contending otherwise. It is the Petitioners, after acquittal, who are seeking reinstatement, whose prayer has been rejected. While defending themselves, the Respondents, Railway Authorities, can always contend that there is a difference between the departmental inquiry and the criminal trial in the Petitioners' case.

14. Hence, no case is made out for interference in writ jurisdiction. The writ petitions are accordingly dismissed.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)