



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10264 OF 2016

1. The State of Maharashtra,
Through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
2. The Divisional Commissioner,
Aurangabad Division, Aurangabad.
3. The Collector,
Osmanabad, Dist. Osmanabad.
4. The Tahsildar,
Lohara, Dist. Osmanabad.

...Petitioners
[Orig. Respondents]

Vs.

Sharad Vasantrao Kandle,
Age : 64 years, Occu. Pensioner,
R/o. Naldurg, at Post Andur,
Dist. Osmanabad.

...Respondent
[Orig. Applicant]

.....
Mrs. Vaishali S. Chaudhari – AGP for Petitioners/State
Ms A. N. Ansari – Advocate for the Respondent
.....

**CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.**

DATED : 26TH AUGUST, 2025

ORAL ORDER [Per R. G. Avachat, J.] : -

. Heard.

2. This Writ Petition, filed under Article 226 of the Constitution of India, challenges the Judgment and Order dated 04.03.2016 passed by the Maharashtra Administrative Tribunal [MAT], Bench at Aurangabad, in Original Application No. 145 of 2015.

FACTS : -

3. The Respondent was in service with the Revenue Department. At the relevant time, he was Godown Keeper at Tahsil Naldurg, Taluka Tuljapur, District Osmanabad. During his tenure, he was found to have misappropriated a huge quantity of foodgrains stocked in the godown and even the empty gunny bags thereof. The Departmental Enquiry was therefore initiated against him. He was simultaneously prosecuted for the offence punishable under Section 409 of the Indian Penal Code. In the criminal trial, he has been acquitted. However, in the Departmental Enquiry, he was found guilty of Charge No. 1 and 10. The Disciplinary Authority, therefore, imposed penalty in the nature of permanent deduction of 25% of the retirement pension of the Respondent, directed that the suspension period be considered as continuity in service only for the purpose of calculation of pension, and ordered recovery of a sum of little over Rs.7.00 lakh said to have been misappropriated, (cost of foodgrains). The Respondent, therefore, first preferred a Departmental Appeal, but was unsuccessful therein. He thereafter approached the MAT.

4. The MAT allowed the Original Application mainly on the ground that the Respondent had been acquitted in the criminal cases, relying on the judgment of the Apex Court in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. (AIR 1999 SC 1416) and G. M. Tank Vs. State of Gujarat and Ors. (2006) 3 CTC 494. Being aggrieved with the Judgment of the MAT, the Department/State has preferred the present Writ Petition.

5. The learned AGP for the Petitioners would submit that the evidence in the criminal case and the departmental enquiry was altogether different. The MAT erred in relying upon the judgments in Capt. M. Paul Anthony (supra) and G. M. Tank (supra). She relies on the judgment in Airports Authority of India Vs. Pradip Kumar Banerjee, AIR 2025 SC 1052, to submit that even in the case of acquittal in the criminal case, the departmental inquiry needs to be proceeded against the delinquent. According to her, the evidence adduced in the departmental inquiry has to be appreciated independently. According to her, it was not a case of an honourable acquittal of the Respondent. It was also not a case of the same quality and quantity of evidence in criminal trial and departmental inquiry as well. Turning to the merits of the matter, she invited our attention to the evidence of the successor in the office of the respondent, namely, Mr. P. D. Jadhav. He testified that a

large quantity of foodgrains was found short of the quantity of foodgrains shown in the stock register. The Enquiry Officer also found the Respondent to have admitted his guilt in a statement recorded by the District Supply Officer. On appreciation of the same evidence, the Enquiry Officer held the Charge Nos. 1 and 10 to have been proved. According to her, the jurisdiction of this Court under Article 226 of the Constitution of India is very limited and it cannot re-appreciate the factual matrix. She would further submit that this is not a case of non-observance of principles of natural justice or violation of statutory mandate or provision causing prejudice to the delinquent in the departmental inquiry. She, therefore, urged for allowing the Petition.

6. The learned Advocate for the Respondent, on the other hand, would submit that the observations of the Apex Court in the aforesaid cases squarely apply to the present case, since no record was produced in the criminal case and even in the departmental enquiry as well. According to her, it was a case of 'no evidence at all'. The statement in the nature of so-called admission given by the Respondent was not at all produced in the evidence. The then Godown Keeper, Mr. P. D. Jadhav, was examined in both the criminal case and the departmental enquiry. Other witnesses examined in criminal trial were not material one. In the departmental enquiry, only two witnesses were examined. The said witnesses were noway related to the Charges framed against

the Respondent herein. According to her, the Respondent has retired on superannuation way back in 2009. The MAT has rightly exonerated him. After such a long lapse of time, the matter needs to be given a quietus. She, therefore, urged for dismissal of the Writ Petition.

7. We have considered the submissions advanced, perused the judgments passed in the criminal cases, and the order passed in the departmental enquiry. Recently the Apex Court in the case of **State Bank of India & Others Versus Ramadhar Sao**, Civil Appeal No. 10680 of 2025 (Arising out of S.L.P. (C) No. 6722 of 2023), decided on 20th August, 2025, observed as under :

13. The legal position with regard to interference in inquiries or the orders passed by the Disciplinary Authority in exercise of powers of judicial review is well-settled. This court in SBI's case (supra) observed as under:

“22. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court...” (emphasis supplied).

8. We are conscious of the position as regards the restriction on the jurisdiction of this Court to be exercised under Article 226 of the Constitution of India while appreciating the findings recorded in the departmental enquiry. In the case at hand, the MAT has not at all adverted to the factual matrix and evidence in the case. Giving due deference to the limited scope of our jurisdiction under Article 226 of

the Constitution of India, we do not, as we cannot, go into the aspect of appreciation of evidence adduced before the Enquiry Officer in the departmental enquiry.

9. In the criminal cases, there were six (6) witnesses examined, four of them did not stand by the prosecution. The other two were police officials. One P. D. Jadhav, the then Godown Keeper, was the common witness in both criminal trial and departmental enquiry. We have perused the evidence in both matters. To find that it was not a case of same evidence, it appears that he was not extensively cross-examined. We do not propose to dwell at length on this aspect of the matter since the MAT is required to do the said exercise. Suffice it to say that, reading the Judgment in the criminal cases, we do not find the respondent was honorably acquitted. The criminal court found the respondent not to have been entrusted with the stock in the godown. We may not agree with the same, by nature of his portfolio, the Respondent was entrusted with the godown as Godown Keeper. It is implied that the foodgrains in the godown were entrusted with him.

10. Further more, in paragraph nos. 13 and 14 of the judgment in the case of Commissioner of Police, New Delhi Versus Narender Singh, (2006) 4 SCC 265, it has been held in paragraph nos. 13 and 14 as under : -

13. *It is now well settled by reason of a catena of decisions of this Court that if an employee has been acquitted of a criminal charge, the same by itself would not be a ground not to initiate a departmental proceeding against him or to drop the same in the event an order of acquittal is passed.*
14. *In Manager, Reserve Bank of India v. S. Mani, (2005) 5 SCC 100, this Court held: (SCC p. 109, para 12)*
 - “12. *It is trite that a judgment of acquittal passed in favour of the employees by giving benefit of doubt per se would not be binding upon the employer.” [See Bank of India v. Degala Suryanarayana (1999) 5 SCC 762; Ajit Kumar Nag v. G.M. (PJ), Indian Oil Corpn. Ltd. (2005) 7 SCC 764.*

11. Since we found both the criminal cases and the departmental enquiry to have not been proceeded on the basis of the same evidence, the observations in the cases relied upon by the learned Advocate for the Respondent have no application at all. The settled position of law is that, in spite of acquittal in a criminal case, the departmental enquiry must proceed. The authorities concerned shall draw an independent conclusion on appreciation of the evidence adduced in the departmental enquiry. It is reiterated that the MAT simply relying on the authorities relied upon by the Respondent allowed the O.A. without appreciating the evidence produced in the departmental enquiry. We, therefore, have no option but to allow this Writ Petition and remand the matter back to the MAT to arrive at its findings on appreciation of the material adduced in the departmental enquiry. It is made clear that the MAT shall not enter into the question as to whether the Respondent is to be exonerated on the ground of his acquittal in the criminal cases.

12. With the aforesaid observations, the Writ Petition partly succeeds. The Judgment and Order dated 04.03.2016 passed by the learned MAT, Bench at Aurangabad, in Original Application No. 145 of 2015, is hereby set aside. The matter is remanded back to the MAT to decide the same on its own merits (as observed above), within a period of four (4) months from the date of this order.

13. Petition stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE