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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

WA No. 1485 of 2021

and

WP No. 21131 of 2017

W.A.No.1485 of 2021

1. N.Nithyanand(Died)
S/o Natrayaqn, Formerly AR PC 1085, No.643,
Kamarajar Road, Kitchipalayam Po, Singnallur,
Coimbatore 641 015
2. Babyrani F/52
W/o. Late Nithyanand Formerly AR PC 1085 6,
Kothari Mill Road, Uppilipalayam, Coimbatore
641 015
3. N.Bhuvanesh
M/20 Late Nithyanand Formerly AR PC 1085
6, Kothari Mill Road, Uppilipalayam,
Coimbatore 641 015
4. N.Sowndarya
F/17 D/o Late Nithyanand Formerly AR PC
1085 6, Kothari Mill Road, Uppilipalayam,
Coimbatore 641 015
5. Saraswathi
W/o Late Natrayan M/o Late Nithyanand
Formely AR PC 1085 6, Kothari Mill Road,
Uppilipalayam, Coimbatore 641 015

(AA2 To 5 Brought on record as LRs of The
Deceased A1 Vide Court Order Dated
30.9.2022 made in CMP.No.19644 Of 2021 In
WA No.1485 Of 2021 by PUJ and DBCJ.)

..Appellant(s)



Vs

1. The Superintendent Of Police
Coimbatore District, Coimbatore 18
2. The Deputy Inspector General Of Police
Coimbatore Range, Coimbatore 18

..Respondent(s)

WP No. 21131 of 2017

1. N.Nithyanantham (Deceased),
S/o.Nattarayan, Formerly PC 1085,
Coimbatore District Armed Reserve, No.6,
Kothari Mill Road, Uppilipalayam,
Coimbatore 641 003
2. Babyrani,
W/o. late Nithyanantham, No.6, Kothari Mill
Road, Uppilipalayam (P.O),
Coimbatore - 641 105.
3. N.Bhuvanesh,
S/O. late Nithyanantham, No.6, Kothari Mill
Road, Uppilipalayam (P.O),
Coimbatore - 641 105.
4. N.Sowndarya,
D/O. late Nithyanantham, No.6, Kothari Mill
Road, Uppilipalayam (P.O),
Coimbatore - 641 105.
5. Saraswathi,
W/o. Late Natrayan, M/o. late Nithyanantham,
No.6, Kothari Mill Road, Uppilipalayam (P.O),
Coimbatore - 641 105.
(P2 to P5 are substituted as LR's of deceased
sole petitioner vide order dated 09.10.2025
made in WMP.28217/2021 in WP.21131/2017
by MSRJ, RSVJ)

..Appellant(s)

Vs

1. The Superintendent of Police,
Coimbatore District, Coimbatore.
2. The Deputy Inspector General
of Police, Coimbatore Range, Coimbatore.



3. The Director General of Police
Tamilnadu, Chennai 600 004

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..Respondent(s)

WA No. 1485 of 2021

To set aside the order passed by the Learned Judge in
WP.No.19404 of 2007 dated 11-12-2020

W.P.No. 21131 of 2017

calling for the records of the 1st respondent in connection with the
impugned order passed by him in RC No. J1/PR101/2004 dated 08.03.2006
and confirmed by the 2nd respondent in his C No. D2/AP25/ 2006 dated
6.9.2006 and further confirmed by the 3rd respondent in his RC. No. 131284/
API(1)/ 2016 dated 30.12.2016 and quash the same and direct the
respondents to reinstate the petitioner into service and grant him all
consequential service and monetary benefits and grant such other further
relief as this Honourable Court

WA No. 1485 of 2021

For Appellant(s):	Mr.K.Venkatramani, Senior Counsel for Mr.M.Muthappan
For Respondent(s):	Mr.P.Kumaresan, Addl.Advocate General assisted by Mr.U.M.Ravichandran, Spl.G.P. for R1 & R2

W.P.No.21131 of 2017

For Petitioner	: Mr.K.Venkatramani, Senior Counsel for Mr.M.Muthappan
For Respondents	: Mr.P.Kumaresan, Addl.Advocate General assisted by Mr.U.M.Ravichandran, Spl.G.P. for R1 to R3

**COMMON JUDGMENT****(Judgment of the Court was delivered by S.M.Subramaniam J.)**

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Writ Appeal has been instituted to assail the writ order dated 11.12.2020 passed in W.P.No.19404 of 2007. Another writ petition came to be filed by the deceased Appellant, Mr.N.Nithyanantham in W.P.No.21131 of 2017 challenging the order of removal as well as the appellate order passed by Inspector General of Registration and Director General of Police. Since the first writ petition had been instituted challenging the order of removal passed by the original authority as well as by the first appellate authority, both the writ appeal and the writ petition are taken together for hearing and the following common order is passed.

2. The legal issue involved in the present lis is about simultaneous proceedings i.e., departmental disciplinary proceedings and criminal proceedings against a public servant.

3. The governing legal principles on simultaneous proceedings are:

i) The departmental domestic enquiry and the criminal trial shall proceed simultaneously and the decision in the criminal case would not materially affect the outcome of the domestic enquiry.

ii) The nature of both proceedings and the test applied to reach a final



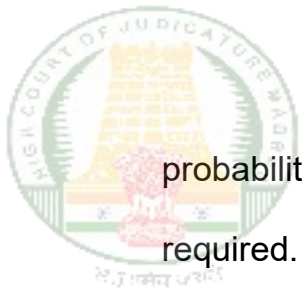
conclusion in the matter are entirely different.

iii) If the case involves complicated questions of fact and law and the disciplinary authority is not in possession of the required materials for the purpose of conducting enquiry, then administrative decision may be taken to keep the departmental proceedings in abeyance, till the disposal of the criminal case. However, the advisability and desirability has to be determined considering the facts of each case by the authority concerned. Therefore, it would be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible.

iv) There is no legal bar for both the proceedings to go on simultaneously.

v) Acquittal by a criminal court would not debar an employer from exercising power in accordance with service rules and regulations in force. The 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 offender, the purpose of departmental enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules.

vi) In the criminal case, the 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 the Court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer, on a finding recorded on the basis of “preponderance of



probability". To convict a person under criminal law, high standard of proof is required. Even a benefit of doubt would be a benefit for the accused in a criminal case. However, no such strict proof is required in a departmental disciplinary proceedings. Therefore, there is absolutely no bar for the respondents to continue the departmental disciplinary proceedings and conclude the same and pass final orders.

vii) An order of conviction if any passed in a criminal case or in criminal appeal, after disposal of the disciplinary proceedings, then if necessary, the Head of the department or the Government may exercise the power of review as the case may be under the relevant rules.

viii) Order of acquittal, if at all passed in a criminal case or in criminal appeal, the same would not affect the final order already passed in the department disciplinary proceedings, based on the domestic enquiry conducted, in view of the fact, acquittal in a criminal case, cannot be a ground for seeking exoneration from the departmental disciplinary proceedings.

4. The fact in brief, in the present lis, are that the deceased appellant Mr.N.Nithyanantham was initially appointed as Grade-II Police Constable in the TamilNadu Police Service in the year 1985. He was subsequently transferred to Armed Reserve and a charge memorandum was issued against him in the year 2004. He was placed under suspension with effect from 26.06.2004. The charge against the appellant was that "*Criminal misconduct by cheating one Krishnan along with one Durairaj, Anandan @ Vivekanandan,*



Natarajan, Leo @ Sheik Abdul Khader and four others to the tune of Rs.5 ½ lakhs on 26.05.2004 on the pretext of selling gold biscuits by using Police Van

TN 38 G 0999 being the driver of the same and thereby involved in the criminal case in Coimbatore City B4, Race Course Police station, Cr.No.932/2004 u/s 120(b), 420 and 109 IPC and was arrested and remanded in the above case and thus brought disgrace to the dignity of the police department.”

5. Simultaneously, a criminal case was also registered in Cr.No.932/2004 under Sections 120B, 420 and 104 IPC. The appellant was arrested and remanded to judicial custody.

6. It is not in dispute that a departmental disciplinary proceedings was conducted independently and the appellant participated in the process of domestic enquiry and defended his case by examining the witnesses and cross-examining of departmental witnesses. The Enquiry Officer submitted his final report holding that the charge against the delinquent officer held proved. Further explanation, based on the findings of the enquiry officer, was sought for and the delinquent officer responded to the second show cause notice. The disciplinary authority, considering the gravity of proved charges, imposed penalty of removal from service. The appellant preferred first appeal before the Inspector General of Police and second appeal before the Director General of Police. Both the appeals were rejected and thus, the writ petitions



came to be instituted.

7. Contentions of the Appellant:

(i) Mr.K.Venkatramani, learned Senior Counsel appearing on behalf of the deceased appellant would mainly contend that the criminal case ended with an order of acquittal. The evidences, both in the departmental proceedings and criminal proceedings are one and the same. Once the prosecution is unable to prove the charge before the criminal court based on the very same evidences and documents, the department cannot impose the penalty of removal from service. It is further contended that the delinquent officer was not directly connected with any offence and that was a ground on which, he was acquitted by criminal Court of law. Thus, the benefit of order of acquittal is to be extended in favour of the delinquent officer.

(ii) Mr.K.Venkatramani, learned Senior counsel would rely on three judgments. In the case of **Ram Lal vs. State of Rajasthan and others** Civil Appeal.No.7935 of 2023 dated 04.12.2023, the Hon'ble Supreme Court of India made the following observations in paragraph No.25 as follows:

“ Expressions like “benefit of doubt’ and “honorably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in



the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.

(iii) In the case of **Maharana Pratap Singh vs. State of Bihar & others** reported in **2025 INSC 524**¹, the Hon'ble Apex Court held as follows:

“40. Before delving further into this sub-issue, it is once again essential to fall back on withholding of the departmental file pertaining to the disciplinary proceedings, thereby preventing an ascertainment of the cause of the delay in production by the prosecution of PW-2 for cross-examination by the appellant. In any event, can the appellant be held liable for such a prolonged gap? Likely not, as it is the responsibility of the prosecution to produce the witness. Moreover, in the absence of the departmental file, we cannot conclusively attribute the delay to the appellant either. Consequently, the lapse, without anything more before us, has to be attributed to the prosecution.

....

...

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

¹ 2025 INSC 524



*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. This is a position settled by the decision in **G.M.Tank** (Supra), since reinforced by a decision of recent origin in **Ram Lal v. State of Rajasthan**.”*

(iv) The Division Bench of the Madras High Court in the case of **Secretary to Government, Home Department vs. I.Muthupandi** in W.P.13031 of 2007 delivered a judgment on 16.04.2024 considering the expression “benefit of doubt” and “honorably acquitted”.

(v) In view of the distinction as considered by the Hon’ble Apex Court, the judgments cited supra, the present case is also to be considered extending the expression “benefit of doubt’ in favour of the delinquent officer for nullifying the punishment of removal from service.

8. Contentions of the Respondents:

(i) Mr.P.Kumaresan, learned Additional Advocate General would strenuously oppose by stating that rules of natural justice has been complied with. Opportunities as contemplated under the Disciplinary and Appeal Rules were provided. Charges are grave in nature and during the enquiry, the charges are held proved. The proved charges involving morale discipline of the Police Force was taken into consideration by the disciplinary authority and therefore, the major penalty of removal from service was imposed. First as well as the second appellate authority confirmed the order of the original



authority. Writ Court considered all these aspects and dismissed the writ petition.

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(ii) With regard to the contention raised on behalf of the appellant Mr.P.Kumaresan, learned Additional Advocate General would reply by stating that in the criminal case, P.W.1 was not identified and the said benefit of doubt was extended in favour of the accused person. Even a smallest doubt in criminal case and the benefit therein will be extended in favour of the accused. However, in the departmental disciplinary proceedings the witnesses clearly deposed about the occurrence and therefore, the order of acquittal in the criminal case based on the benefit of doubt, cannot be extended in departmental proceedings so as to exonerate the delinquent officer from the grave misconduct.

9. **Discussions:**

(i) The facts relating to conduct of departmental disciplinary proceedings are not seriously disputed between the parties. Rules of natural justice had been complied with. The procedures as contemplated under the discipline and appeal rules were scrupulously followed by the disciplinary authority. First Appeal and Second Appeal filed before the Inspector General of Police and Director General of Police were also rejected by confirming the penalty of removal from service imposed by the original authority.

(ii) The question arises whether the benefit of doubt, based on which, an order of acquittal was passed by the criminal court of law, is to be applied in



department disciplinary proceedings for exonerating the delinquent officer from the proof of misconduct.

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(iii) In the present case, perusal of the records would show that the department disciplinary proceedings was conducted in the year 2005. The charges were framed in the year 2004. Thus, soon after framing of the charges, domestic enquiry conducted and the findings of the domestic officer in his report would show that P.W.1 identified the delinquent officer in the driver's seat of the Police vehicle with stone guard and letters 'காவல்' (Police) in Police uniform at the time of occurrence on 26.05.2004 at the SOC near the Saradambal temple at Race Course. Further, witness deposited that registration number of the vehicle used in the occurrence is TN-38-G-0992 and he identified the delinquent at the time of enquiry to be driver of the vehicle at the time of occurrence. The witness further added the after the occurrence, he identified the delinquent at the time of arrest, later at B4 Race Course Police Station.

(iv) Learned Additional Advocate General relied on the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka and another vs Umesh** reported in **2022 (6) SCC 563**², wherein the principles as narrated above in the present judgment were held by the Hon'ble Apex Court.

(v) The said principles are reiterated in a judgment of three Judges Bench of the Supreme Court in the **State of Haryana v. Ratan Singh, (1997) 2 SCC 491**³ Justice. V.R.Krishna Iyer, said as follows:

² 2022 (6) SCC 563

³ (1997) 2 SCC 491



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“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The ‘residuum’ rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence — not in the sense of the technical rules governing regular court proceedings but in a fair common sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence



in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.”

These principles have been reiterated in subsequent decisions of this Court including State of Rajasthan v. B K Meena⁶; Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh⁷; Ajit Kumar Nag v. Indian Oil Corporation Ltd. ⁸; and CISF v Abrar Ali⁹.

(vi) In the present case, departmental disciplinary proceedings were conducted by following the procedures and by affording opportunity to the delinquent officer. Delinquent officer defended his case. Charge was held proved. Based on the proved charges, punishment of removal from service was imposed. Therefore, mere acquittal in a criminal case on benefit of doubt would not be of any avail to the delinquent in the present case for seeking exoneration from the departmental disciplinary proceedings.

(vii) Pertinently, the departmental proceedings initiated in the year 2004 ended in the year 2005. In the year 2006, the punishment of removal was imposed. However, the criminal Court of law delivered judgment in the year 2016 and there was a long delay in conducting criminal trial before the Criminal Court of law. Therefore, the grounds as well as the benefit of doubt extended to the accused in the criminal case would be of any avail to seek exoneration from the departmental proceedings. On account of efflux of time,



the witnesses may not be in a position to identify or on account of lapse of time, they would have chosen not to support the case of the prosecution or otherwise. However, the department case was initiated promptly and concluded in the year 2005 and for all these reasons, the arguments advanced on behalf of the appellant that the benefit of doubt extended by the criminal Court of law is to be applied for the purpose of exonerating the delinquent officer from the punishment of removal from service, is unacceptable.

10. The appellant has not established any acceptable ground to interfere with the order of punishment of removal from service. Thus, W.A.No.1485 of 2021 as well as W.P.No.21131 of 2017 are dismissed. No costs.

(S.M.S.,J.) (K.S.,J.)
04-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vsi

To

1. The Superintendent of Police,
Coimbatore District, Coimbatore-18.
2. The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore-18
3. The Director General of Police
Tamilnadu, Chennai 600 004



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WA No. 1485 of 2



**S.M.SUBRAMANIAM J.
AND
K.SURENDER J.**

vsi

**WA No. 1485 of 2021
AND
WP No. 21131 of 2017**

04-03-2026