



W.P(MD)No.3614 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 10.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.3614 of 2026

M.Sivanesa Selvan

... Petitioner

Vs

1.The Superintendent of Police,
Thoothukudi District.

2.The Additional Superintendent of Police,
Thoothukudi District,
Thoothukudi.

3.The Inspector of Police,
Alwarthirunagari Police Station,
Thoothukudi District,
Crime No.113/2025.

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the Respondents 1 and 2 from proceeding with the disciplinary proceedings as against the petitioner till the conclusion of the criminal case registered as against the petitioner in Crime No.113 of 2025 on the file of 3rd Respondent Police Station.



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For Petitioner : Mr.K.Jeyamohan
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

The petitioner, who was working as Head Constable at Eral Police Station, Thoothukudi was suspended from service by a proceedings of the Superintendent of Police, Thoothukudi, dated 07.10.2025, pursuant to a criminal case registered as against him in Crime No.113 of 2025 on the file of Alwarthirunagari Police Station, Thoothukudi, for the offence under Sections 126, 296(b), 131, 109, 118(1), 351(3) of BNS, 2023. Based on the criminal case, the Department has initiated departmental proceedings as against the petitioner and issued a charge memo dated 24.12.2025. Subsequently, an Enquiry Officer was also appointed by proceedings dated 22.01.2026. Challenging the same, the petitioner has filed this writ petition that the departmental proceedings initiated against him should not proceed further pending the criminal case in Crime No. 113 of 2025 on the file of Alwarthirunagari Police Station, Thoothukudi.



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2. There is no legal bar for simultaneous conduct of departmental and criminal proceedings. The Hon'ble Supreme Court has, time and again, reiterated that there is no bar in law for initiation of simultaneous departmental proceedings on the same set of allegations as in the criminal case and also permitted the disciplinary authorities to conclude the departmental proceedings without waiting for the outcome of the criminal case, inasmuch as a criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas charges in the departmental proceedings should be established on the basis of preponderance of probabilities.

3. The observations made by a Full Bench of the Hon'ble Supreme Court in ***Ajit Kumar Nag v. General Manager, Indian Oil Corporation Ltd*** [2005 (7) SCC 764], are extracted as under:-

“11. ... In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with Rules and



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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 enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service Rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, 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 a 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'....."

4. In ***State of Rajasthan & Others v. Phool Singh***

[2022 SCC OnLine SC 1140], the Hon'ble Supreme Court has held



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as under:-

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“10.

... A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of “preponderance of probabilities”, in a criminal court the prosecution has to prove its case “beyond reasonable doubt”. In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.”

5. Following the principles laid down by the Hon'ble Supreme Court, a Division Bench of this Court in ***Additional Director General of Police and Another v. O.Baskaran*** [WA.No. 1988 of 2021, decided on 30.09.2021] has issued certain directions on the principles to be followed in the simultaneous disciplinary proceedings to be initiated as against the Government servants on the same set of charges in the criminal cases, as follows:-



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“11. Finding that no prima facie case has been made out by the Appellants herein, we are not inclined to interfere with the orders of the learned Single Judge. Accordingly, this Writ Appeal is disposed of with the following directions:

i) The Appellants are directed to revoke the suspension order and reinstate the Writ Petitioner on or before the end of November, 2021;

ii) It is open to the Appellants to initiate departmental proceedings against the Writ Petitioner and if any commenced or initiated, the same shall be proceeded with, dehors pendency of the criminal case, as both criminal proceedings as well as departmental proceedings can go on simultaneously, as there is no hindrance on the part of the employer to proceed with the departmental proceedings, if the Criminal Proceedings are not initiated or concluded within one year from the date of FIR (not from the date of filing of Charge Sheet, as filing of Charge Sheet in the Criminal Court is a herculean task and will take years together), in view of the fact that the criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas charges in the departmental proceedings should be established on the basis of preponderance of probabilities. In the event of the delinquent employees, including the Writ Petitioner, having less than one year of service and in the absence of



pension rules to proceed against them, after retirement, then there is no need for strict observance of the waiting period;

iii) The Disciplinary Authority shall proceed with the enquiry on a day to-day basis without adjourning the matter beyond seven working days at any point of time and bring the issue to a logical conclusion at the earliest, but not later than six months from today. The petitioner shall co-operate for early attainment of the proceedings;

iv) If the Writ Petitioner refuses to participate in the enquiry, ex parte enquiry may be conducted, final decision in the ex-parte may be taken and communicated to the Writ Petitioner. This will enable the Writ Petitioner to participate in the enquiry without protracting it. Till final orders are passed by the disciplinary authorities, the Writ Petitioner cannot approach the Court further to stall the proceedings;

v) For the suspension period, the subsistence allowance needs to be paid in terms of the Rules, provided the employee does not leave the Head Quarters and it is open to the employer to verify the residence of the employee that has been furnished by him/her as to whether the employee is residing there or not. In case the employee is not found therein, then the subsistence allowance can be stopped, as the employee should not leave the Head Quarters without prior permission;



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vi) *The enquiry should not be stalled, citing the reason of non availability of documents. If the documents are taken by the DVAC or other Departments or filed before the Court, certified copies of those documents can be obtained by the Department and in the event of any such request made, other Departments are bound to furnish the same, in order to enable the concerned Department to proceed with the enquiry against the delinquent and DVAC or other Departments should not be a party for nonconduct of enquiry;*

vii) *The documents, which are going to be relied upon by the Department in the domestic enquiry, will have to be furnished to the Writ Petitioner. Wherever it is not possible and documents are voluminous, the Writ Petitioner will be permitted to take notes of those documents for the purpose of effective defence in the enquiry;*

viii) *In case Departmental action is not taken against the delinquent in time, the Officer, who is responsible for non-initiation of Departmental Proceedings should be taken to task, on the presumption that the said Officer is in collusion with the delinquent employee and adverse remarks against the Officer, who is responsible to take action shall be entered in the Service Register and he/she should not be allowed to be promoted further and reversion to the post in which that person /*



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Officer was appointed shall be the minimum punishment to him/her;

ix) The Appellants / Officials in other Departments, while taking a decision, shall bear in mind the order of this Court dated 06.01.2021 made in W.P.No.13 of 2021 in entirety.”

6. Considering the directions issued by the Division Bench of this Court in **O.Baskaran's** case (supra), the Government has issued comprehensive guidelines with regard to the simultaneous departmental disciplinary action as against the Government servants for the same set of charges as in the criminal cases connected with the discharge of their official duty, in G.O.Ms.No.66, Human Resource Management Department, dated 06.07.2022. Therefore, this Court is not inclined to entertain this plea raised by the petitioner and accordingly, the writ petition stands dismissed. No costs.

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To

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B.PUGALENDHI, J.

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