



2025:AHC:188636

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Neutral Citation No. - 2025:AHC:188636

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT – A No. - 1738 of 2025

Anand Kumar

.....Petitioners(s)

Versus

Union Of India And
Another

.....Respondents(s)

Counsel for Petitioners(s) : Arvind Kumar Yadav,Narendra
Kumar Chaturvedi

Counsel for Respondent(s) : A.S.G.I.,Pranjal Mehrotra

Court No. - 49

HON’BLE AJAY BHANOT, J.

1. The judgement is being structured in the following conceptual framework to facilitate the discussion:

I	Introduction		
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I. Introduction

2. The petitioner has assailed the order of suspension dated 19.12.2024 as well as the disciplinary proceedings initiated against him by the respondent authorities.

II. Facts

3. The petitioner is working as Assistant-Grade III in India Government Mint, NOIDA. According to the respondents the petitioner was caught while attempting to steal 13 coins of Rs. 20 denomination on 19.12.2024 by the security personnel of the CISF who was on duty at the relevant point in time. For the aforesaid act of attempted theft an FIR was lodged by one Harpal Singh, Assistant Sub Inspector, CISF which came to be registered as Case Crime No. 0561 of 2024 at Police Station- Phase I, NOIDA on 20.12.2024 at 2.02 AM.

4. The investigation has concluded and the chargesheet has been filed before the trial court on 27.12.2024. The prosecution witnesses as depicted in the chargesheet are as under:

- “1. Harpal Singh
- 2. Barun Bharti
- 3. Pankaj Saini
- 4. Pradeep Kumar Gautam”

5. The authorities of the India Government Mint have also initiated a departmental enquiry into the act of theft

committed by the petitioner. The petitioner has assailed the said enquiry proceedings. The departmental enquiry proceedings were initiated against the petitioner by drawing up a chargesheet on 03.12.2024. The article of charge as depicted in the chargesheet is extracted hereunder:

“Statement of Article of Charge framed against Sh. Anand Kumar, Operator, Level-W4 (U/s), India Government Mint, Noida

Article I

That the said Sh. Anand Kumar, Operator, Level-W4, SAP-279 (U/s), while working in the Counting Section of IGM Noida was caught red-handed at the time of frisking/searching by Shri Barun Bharti, the Security Personnel of CISF (No. 170709785, Constable/GD) deployed at the Technical Lobby Gate (hard security area) in the evening around 6:14 P.M. on 19.12.2024 in the act of attempt to steal out 13 nos. of coins of Rs. 20 denominations holding in his left fist. The details of the episode are set out in the Statement of Imputations attached as Annexure II.

By doing the above act, Shri Anand Kumar, Operator, Level-W4 (SAP-279) has failed to comply with the directives mentioned in Rules-4 (1)- General of SPMCIL Conduct Discipline Appeal Rules 2020 under Sub Rule (i) which stipulates that every employee shall maintain absolute integrity, (iii) which stipulates that an employee should do nothing which is unbecoming of a public servant, (vi) which mandates an employee too maintain high ethical standards and honesty, (xviii) which says that an employee shall refrain from doing anything which is, or may be, contrary to any law, rules, regulations & established practices etc., (xxi) which stipulates that an employee shall conduct himself at all times in a manner conducive to the best interest of the company which will enhance the reputation of the company, (xxii) which mandates that an employee shall do nothing which shall lower the image of the company.

The act/conduct of Shri Anand Kumar (SAP-279) tantamount to following misconduct under SPMCIL Conduct, Discipline and Appeal Rules, 2020:-

- a. Rule 5(1) as per which theft, fraud or dishonesty etc. in connection with the business or property of the company will constitute misconduct,
- b. Rule 5(5) which says that acting in a manner prejudicial to the interests of the company amounts to misconduct,
- c. Rule 5(18) as per which commission of any act which amounts to a criminal offense will constitute misconduct.
- d. Rule 5(21) which says that commission of any acts subversive of discipline or which amounts to a criminal offence will be treated as misconduct.
- e. Rule 5(34) which stipulates that involvement any type of fraud, forgery or criminal offence will constitute misconduct.”

6. The list of documents which are proposed to be relied upon against the petitioner and as depicted in the departmental chargesheet are extracted hereunder:

“LIST OF DOCUMENTS

- 1) Confessional Statement dated 19.12.2024 of Shri Anand Kumar (SAP ID-279)
- 2) Special Report dated 19.12.2024 of the AC, CISF, addressed to CGM, IGMN
- 3) Crime incident memo and seizure memo dated 19.12.2024 submitted by Shri Harpal Singh, ASI, CISF (No. 895021157)
- 4) Note dated 19.12.2024 submitted by Shri Prabhat Thakur, Supervisor (Technical)
- 5) Order dated 19.12.2024 suspending Shri Anand Kumar from the services of IGMN bearing no. IGMN – 140/3/1(195)/11/Estt.II/692.
- 6) Report dated 21.12.2024 of the 3 member committee of officers which enquired into the matter, along with enclosures thereto.
- 7) Letter dated 24.12.2024 from AM(Legal) to the investigating officer, Police Station, Noida Phase-1, handing over a Pen Drive containing 03 nos. CCTV footage alongwith 01 camera videography of the incident.
- 8) 03 nos. CCTV footages of incident dated 19.12.2024 relevant to the case.

9) One camera videography containing the statement of Shri Anand Kumar taken by Company Commander/Inspector CISF on 19.12.2024.”

7. The list of witnesses proposed by the department to bring home the charge of aforesaid misconduct as recorded in the chargesheet are recorded hereunder:

“LIST OF WITNESSES

1. Shri B.B. Sharma, Assistant Commandant, CISF
2. Shri Roshan Keshri, Company Commander/Inspector, CISF
3. Shri Harpal Singh, ASI, CISF (No. 895021157)
4. Shri Barun Bharti, Constable CISF (No. 170709785)
5. Shri Prakash Kumar, JGM (HR)
6. Ms. Renu Bhasin, DGM (HR)
7. Shri Pankaj Khurana, DGM (TO)
8. Shri Hitesh Tanwar, Manager (TO)
9. Shri Lalit Verma, Dy. Manager (TO)
10. Shri Prabhat Thakur, Supervisor (T)”

III. Submissions of learned counsel for the parties

8. Shri Narendra Chaturvedi, learned counsel for the petitioner contends that:

- i. The disciplinary enquiry and the criminal proceedings cannot proceed simultaneously. The disciplinary proceedings against the petitioner is in the teeth of law laid down by the Constitutional Courts.
- ii. The evidence in the criminal proceedings and the departmental proceedings is same.

9. Shri Pranjal Mehrotra, learned counsel for the respondent submits that:

i. The criminal trial and the disciplinary proceedings can continue simultaneously.

ii. The evidences proposed by the prosecution in the criminal case and the departmental enquiry are not the same. Though, admittedly there are some overlapping evidences.

iii. The purpose of the disciplinary enquiry and criminal proceedings are entirely distinct.

10. Learned counsels for both parties have relied upon various case laws which will be discussed in the succeeding part of the narrative.

IV. Legal Issue

11. Whether in the facts of this case the disciplinary enquiry has to be stayed pending the criminal trial?

V. Cases in point

12. The plethora of case laws in point evidences the fact that the legal issue which is the subject matter of the instant controversy has engaged the attention of constitutional courts on a regular basis. The development of law has seen three phases namely pre Paul Anthony, Paul Anthony and post Paul Anthony.

V-A. Pre Paul Anthony

13. Among the earliest holdings which have been noticed, the holdings of the Supreme Court on the issue which continue to be noticed in the constitutional discourse was

the judgement rendered in **Delhi Cloth and General Mills Ltd. vs. Kushal Bhan**¹ wherein the principles of natural justice did not constrain the employer from taking disciplinary action against the employer even as the criminal proceedings are on foot before the trial court. The Court also observed “We may, however, add that if the case is of a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to await the decision of the trial court, so that the defence of the employee in the criminal case may not be prejudiced”.

14. The same principal was elaborated in **Tata Oil Mills Co. Ltd. v. Workmen**² by holding:

“9.it is desirable that if the incident giving rise to a charge framed against a workman in a domestic enquiry is being tried in a criminal court, the employer should stay the domestic enquiry pending the final disposal of the criminal case. It would be particularly appropriate to adopt such a course where the charge against the workman is of a grave character, because in such a case, it would be unfair to compel the workman to disclose the defence which he may take before the criminal court. But to say that domestic enquiries may be stayed pending criminal trial is very different from anything that if an employer proceeds with the domestic enquiry in spite of the fact that the criminal trial is pending, the enquiry for that reason alone is vitiated and the conclusion reached in such an enquiry is either bad in law or mala fide.”

15. The Supreme Court invalidated the contention that instead of disciplinary proceedings during pendency of

1 AIR 1960 SC 806

2 AIR 1965 SC 155

criminal trial on the same facts amounts to contempt of Court in **Jang Bahadur Singh v. Brij Nath Tiwari**³ :

“3. The issue in the disciplinary proceedings is whether the employee is guilty of the charges on which it is proposed to take action against him. The same issue may arise for decision in a civil or criminal proceeding pending in a court. But the pendency of the court proceeding does not bar the taking of disciplinary action. The power of taking such action is vested in the disciplinary authority. The civil or criminal court has no such power. The initiation and continuation of disciplinary proceedings in good faith is not calculated to obstruct or interfere with the course of justice in the pending court proceeding. The employee is free to move the court for an order restraining the continuance of the disciplinary proceedings. If he obtains a stay order, a wilful violation of the order would of course amount to contempt of court. In the absence of a stay order the disciplinary authority is free to exercise its lawful powers.”

16. Subsequently, the aforesaid case laws were considered by the Supreme Court in **Kusheshwar Dubey v. Bharat Coking Coal Ltd.**⁴ and the law was propounded as under:

“7. The view expressed in the three cases of this Court seem to support the position that while there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent employee to seek such an order of stay or injunction from the court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard and fast, strait-jacket formula valid for all cases and of general application

3 AIR 1969 SC 30

4 (1988) 4 SCC 319

without regard to the particularities of the individual situation. For the disposal of the present case, we do not think it necessary to say anything more, particularly when we do not intend to lay down any general guideline.”

17. The same issue regarding stay of departmental enquiry till conclusion of a criminal trial arose before the Supreme Court in **State of Rajasthan v. B.K. Meena and Others**⁵.

“14. It would be evident from the above decisions that each of them starts with the indisputable proposition that there is no legal bar for both proceedings to go on simultaneously and then say that in certain situations, it may not be ‘desirable’, ‘advisable’ or ‘appropriate’ to proceed with the disciplinary enquiry when a criminal case is pending on identical charges. The staying of disciplinary proceedings, it is emphasised, is a matter to be determined having regard to the facts and circumstances of a given case and that no hard and fast rules can be enunciated in that behalf. The only ground suggested in the above decisions as constituting a valid ground for staying the disciplinary proceedings is that “the defence of the employee in the criminal case may not be prejudiced”. This ground has, however, been hedged in by providing further that this may be done in cases of grave nature involving questions of fact and law. In our respectful opinion, it means that not only the charges must be grave but that the case must involve complicated questions of law and fact. Moreover, ‘advisability’, ‘desirability’ or ‘propriety’, as the case may be, has to be determined in each case taking into consideration all the facts and circumstances of the case. The ground indicated in *D.C.M.* [(1960) 3 SCR 227 : AIR 1960 SC 806 : (1960) 1 LLJ 520] and *Tata Oil Mills* [(1964) 7 SCR 555 : AIR 1965 SC 155 : (1964) 2 LLJ 113] is also not an invariable rule. It is only a factor which will go into the scales while judging the advisability or desirability of staying the disciplinary proceedings. One of the contending considerations is that the disciplinary enquiry cannot be — and should not be — delayed unduly. So far as criminal cases are concerned, it is well known that they drag on endlessly where high officials or persons

5 (1996) 6 SCC 417

holding high public offices are involved. They get bogged down on one or the other ground. They hardly ever reach a prompt conclusion. That is the reality in spite of repeated advice and admonitions from this Court and the High Courts. If a criminal case is unduly delayed that may itself be a good ground for going ahead with the disciplinary enquiry even where the disciplinary proceedings are held over at an earlier stage. The interests of administration and good government demand that these proceedings are concluded expeditiously. It must be remembered that interests of administration demand that undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. *The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements.* The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanour should be continued in office indefinitely, i.e., for long periods awaiting the result of criminal proceedings. It is not in the interest of administration. It only serves the interest of the guilty and dishonest. While it is not possible to enumerate the various factors, for and against the stay of disciplinary proceedings, we found it necessary to emphasise some of the important considerations in view of the fact that very often the disciplinary proceedings are being stayed for long periods pending criminal proceedings. Stay of disciplinary proceedings cannot be, and should not be, a matter of course. All the relevant factors, for and against, should be weighed and a decision taken keeping in view the various principles laid down in the decisions referred to above.

17. There is yet another reason. The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is

whether the offences registered against him under the Prevention of Corruption Act (and the Penal Code, 1860, if any) are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different. Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed.”

18. The purposes of departmental enquiry and criminal prosecution were examined in depth in **Depot Manager, A.P. State Road Transport Corporation v. Mohd. Yousuf Miya and Ors.**⁶ while determining the said issue and the law was laid down as under:

“8. We are in respectful agreement with the above view. The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public (*sic* duty), as distinguished from mere private rights punishable

6 (1997) 2 SCC 699

under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Evidence Act. Converse is the case of departmental enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. The enquiry in the departmental proceedings relates to the conduct of the delinquent officer and proof in that behalf is not as high as in an offence in criminal charge. It is seen that invariably the departmental enquiry has to be conducted expeditiously so as to effectuate efficiency in public administration and the criminal trial will take its own course. The nature of evidence in criminal trial is entirely different from the departmental proceedings. In the former, prosecution is to prove its case beyond reasonable doubt on the touchstone of human conduct. The standard of proof in the departmental proceedings is not the same as of the criminal trial. The evidence also is different from the standard point of the Evidence Act. The evidence required in the departmental enquiry is not regulated by the Evidence Act. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances. In this case, we have seen that the charge is failure to anticipate the accident and prevention thereof. It has nothing to do with the culpability of the offence under Sections 304-A and 338, IPC. Under these circumstances, the High Court was not right in staying the proceedings.”

V-B. Paul Anthony

19. Milestone in the law occurred when the Supreme Court propounded the law on the issue of concurrent continuance of disciplinary enquiry and criminal prosecution in **Capt.**

M. Paul Anthony v. Bharat Gold Mines Ltd. & Anr.⁷ by observing:

“22. The conclusions which are deducible from various decisions of this Court referred to above are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.
- (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.”

20. The judgement rendered in **Capt. M. Paul Anthony(supra)** was a milestone in the law inasmuch as its applicability became a matter of considerable depth. On

⁷ (1999) 3 SCC 679

many occasions the ratio in **Capt. M. Paul Anthony(supra)** was seen as judicial mandate to ipso facto stay departmental proceedings on the criminal trial on the same set of facts.

21. Consequently on many occasions attempts were made to understand the ratio of **Capt. M. Paul Anthony(supra)** and prevent the misconstruction of the same. Misconstruing the law laid down in **Capt. M. Paul Anthony(supra)** would have grave consequences inasmuch as the departmental enquiries would practically come to stand still since criminal trials invariably take a long time to decide.

V-C Post Paul Anthony

22. The issue of simultaneous continuance of criminal trial and departmental proceedings grounded on identical set of facts and consequences of acquittal in the criminal case arose for consideration before this Court in **Kailash Chandra-II v. State of U.P. and ors.**⁸.

23. This Court upon consideration of the factual matrix in which the judgement in **Capt. M. Paul Anthony(supra)** was rendered held that **Capt. M. Paul Anthony(supra)** was made in peculiar facts and circumstances of the aforesaid case held in the context of **Capt. M. Paul Anthony(supra)** “that the decision appears to have been made in peculiar facts and circumstances of the aforesaid

case and has not been acknowledged to law laid down in general under Article 141 of the Constitution of India and rather should be treated to one under Article 142 of the Constitution of India having binding upon the purpose alone". The legal rationale for the said holding was enunciated in **Kailash Chandra-II(supra)**:

"23. In Capt. M. Paul Anthony, v. Bharat Gold Mines Ltd. and Anr. reported in MANU/SC/0225/1999 : AIR 1999 S.C. 1416, the question in controversy was in a slightly different context wherein both the proceedings were held simultaneously against the employee concerned and in disciplinary inquiry he was dismissed from service. Later on he was acquitted by the court from criminal charge levelled against him. The Hon'ble Apex Court found as a fact that during the period of suspension the employee concerned was not paid subsistence allowance in as much as disciplinary inquiry was also held ex parte . The court dealing with criminal case has thrown out the entire prosecution story and found as false and had held that prosecution has failed to establish the guilt against the employee concerned. In view of those facts and circumstances of the case, the question for consideration before the Hon'ble Apex Court was as to whether if the departmental proceedings in a criminal case based on identical set of fact and in which employee acquitted in criminal case as to whether such acquittal can conclude the departmental proceedings? In paras 34, 35 and 36 of the judgment, the apex court has held that if the whole case of prosecution was thrown out and employee was acquitted by judicial pronouncement holding that the criminal case was wholly false. It would be unjust, unfair rather oppressive to allow the findings recorded as ex parte in departmental proceedings to stand. For ready reference relevant portion of paras 34, 35 and 36 are being quoted as under :-

34. "... The same witnesses were examined in the criminal case but the Court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was

thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the 'raid and recovery' at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings, to stand.

35. Since the facts and the evidence in both the proceedings, namely, the departmental proceedings and the criminal case were the same without there being any iota of difference, the distinction, which is usually drawn as between the departmental proceedings and the criminal case on the basis of approach and burden of proof, would not be applicable to the instant case."

36. ". In the peculiar circumstances of the case, specially having regard to the fact that the appellant is undergoing this agony since 1985 despite having been acquitted by the criminal Court in 1987, we would not direct any fresh departmental inquiry to be instituted against him on the same facts. The appellant shall be reinstated forth-with on the post of Security Officer and shall also be paid entire arrears of salary, together with all allowances from the date of suspension till his reinstatement, within three months."

24. Except last one case of Capt. M. Paul Anthony all the cases referred herein before, are the cases in which the Government servant or delinquent employees were prosecuted in criminal offence by postponing the domestic inquiry in respect of their alleged misconduct which was also subject matter and foundation of prosecution in a criminal trial and after their acquittal in criminal trial according to law laid down by the Hon'ble Apex Court as well as other High Court referred earlier their such misconduct in departmental inquiry vis-a-vis nature of their acquittal were subject in issue for consideration. In that context the Hon'ble Apex Court as well as other Courts have held that except in a case of clean and honourable acquittal on merit in other cases of acquittal referred in earlier part of this judgment, it is open for the departmental authorities to hold departmental inquiry in respect of misconduct of delinquent employee and take appropriate and proper action in accordance with the provisions of law. Only in case of Capt. M. Paul Anthony the departmental inquiry though ex parte has already been ended in the

dismissal of the appellant of the aforesaid case. Later on in a criminal trial the appellant was acquitted and Hon'ble Supreme Court found that the prosecution story has been found false and thrown out by criminal court. In that situation the Hon'ble Apex Court has held that in given facts and circumstances of the case it would be unjust, unfair rather oppressive to allow the findings recorded at the ex parte departmental proceedings to stand and in peculiar circumstances of the case specially having regard to the fact that the appellant is under going this agony since 1985 despite having been acquitted by criminal court in 1987, it would not be desirable to direct any fresh departmental inquiry to be instituted against the appellant on the same set of facts and appellant was directed to be reinstated forthwith on the post in question with arrears of salary together with other allowances from the date of suspension till the date of his reinstatement. The observation made by the Hon'ble Apex Court in para 36 of the decision appears to have been made in peculiar facts and circumstances of the aforesaid case and has not been intended to lay down any general proposition for universal application under Article 141 of the Constitution of India rather it should be understood in facts and circumstances of the case and should be treated to be under Article 142 of the Constitution of India, which have binding effect between the parties alone. Therefore, the observations made in para 36 of the decision should not be treated as 'ratio of the decision'. What is ratio of the decision of the aforesaid case can be found out on reading of paras 34 and 35 of the aforesaid decision.

25. In order to make it clear, I would like to refer observations of the Hon'ble Apex Court made in this regard in paras 18 and 19 of the judgment rendered in the case of Krishena Kumar v. Union of India and Ors., AIR 1990 Supreme Court 1782:-

18. The doctrine of precedent that is being bound by a previous decision, is limited to the decision itself and as to what is necessarily involved in it. It does not mean that this Court is bound by the various reasons given in support of it, especially when they contain "propositions wider than the case itself required." This was what Lord Selborne said in *Caledonian Railway Co. v. Walker's Trustees* (1882)(7) AC 259) and Lord Halsbury in *Quinn v. Leathem* (1901) AC

495(502), Sir Frederick Pollock has also said: "Judicial authority belongs not to the exact words used in this or that judgment, nor even to all the reasons given, but only to the principles accepted and applied as necessary grounds of the decision."

19. In other words, the enunciation of the reason or principle upon which a Question before a Court has been decided is alone as a precedent. The ratio decidendi is the under-lying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case, which gives rise to the decision. The ratio decidendi has to be ascertained by an analysis of the facts of the case and the process of reasoning involving the major premise consisting of a preexisting rule of law, either statutory or Judge-made, and a minor premise consisting of the material facts of the case under immediate consideration, if it is not clear, it is not the duty of the Court to spell it out with difficulty in order to be bound by it. In the words of Halsbury, 4th Edn. Vol.26 para 573:

"The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, as ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which when it is clear it is not part of a tribunals duty to spell out with difficulty a ratio decidendi in order to be bound by it, and it is always dangerous to take one or two observations out of a long judgment and treat them as if they save the ratio decidendi of the case. If more reasons than one are given by a tribunal for its judgment all are taken as forming the ratio decidendi."

24. A similar distinction was drawn by another learned single Judge of this Court in **Abhai Raj Singh v. Bank of Baroda and Ors.**⁹ after taking a composite view in light of the case laws holding the field:

"5. It is a well-settled principle of law that the degree of proof required in a departmental inquiry is vastly different than the degree of proof required to prove a criminal charge. In the departmental inquiry the finding can be

9 ILR (2005) 1 All 126

recorded in preponderance of probabilities and it is not necessary that the charge must be proved to the hilt. The departmental proceedings and the criminal proceedings are entirely different in nature. They operate in different fields and they have different objectives. The materials or the evidence in the two proceedings may or may not be the same and, in some cases, at least, materials or evidence which would be relevant or open for consideration in the departmental proceeding, may be irrelevant in the criminal proceeding. The rules relating to the appreciation of the evidence in the two inquiries may also be different. The standard of proof, the mode of enquiry and the rules governing the enquiry and the trial in both the cases are entirely distinct and different.

6. The law is well settled that the inquiry officer can come to a different conclusion than arrived at by a criminal Court and that it is immaterial whether the charges were identical or the witnesses were the same, as long as the power exercised by the criminal Court and the inquiry under the relevant law and the service law was distinct and separate. There is no bar for holding a disciplinary proceeding during the pendency of the trial though the basis may be one and the same. It is for the disciplinary authority to decide as to whether in a given case it should keep the domestic inquiry pending till the outcome of the criminal trial or not.

7. In *Delhi Cloth and General Mills Ltd. v. Kushal Bhan* [A.I.R. 1960 S.C. 806], the Supreme Court held:—

“It is true that very often employers stay enquiries pending the decision of the criminal trial Courts and that is fair; but we cannot say that principles of natural justice require that an employer must wait for the decision at least of the criminal trial Court before taking action against an employee.”

and again held—

“We may, however, add that if the case is of a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to await the decision of the trial Court, so that the defence of the employee in the criminal case may not be prejudiced.”

8. Similar view was reiterated by the Supreme Court in *Tata Oil Mills Company, Ltd. v. Workmen* [1964 (9) F.L.R. 142], *Jang Bahadur Singh v. Baij Nath Tiwari* [1968 (17)

F.L.R. 300] *Krusheshwar Dubey v. Bharat Coking Coal, Ltd.* [1988 (2) L.L.N. 912].

In *Kushewar Dubey case* (vide supra), the Supreme Court held that there was no legal bar for simultaneous proceedings being taken against an employee even though there may be cases where it may be appropriate to defer the disciplinary proceedings awaiting the disposal of the criminal case. The Supreme Court held that it was neither possible nor advisable to evolve a hard and fast straight-jacket formula and that in cases where the charge against the employee was of a grave nature and involved complex questions of law and fact, in that event the disciplinary proceedings could be deferred till the decision of the criminal trial.

9. In *Jang Bahadur Singh v. Baij Nath Tiwari* (vide supra), the legal position was summed up by the Supreme Court as under:

“The issue in the disciplinary proceedings is whether the employee is guilty_ of the charges on which it is proposed to take action against him. The same issue may arise for decision in a civil or criminal proceeding pending in a Court. But the pendency of the Court proceeding does not bar the taking of disciplinary action. The power of taking such action is vested in the disciplinary authority. The civil or criminal Court has no such power. The initiation and continuation of disciplinary proceedings in good faith is not calculated to obstruct or interfere with the course of justice in the pending Court proceeding. The employee is free to move the Court for an order, restraining the continuance of the disciplinary proceedings. If he obtains a stay order, a wilful violation of the order would of course amount to contempt of Court. In the absence of a stay order the disciplinary authority is free to exercise its lawful powers.”

10. In *State of Rajasthan v. B.K. Meena* [1996 (2) L.L.N. 1269], the entire case law on this issue was reviewed and the Hon'ble Supreme Court held, in Para. 14, at pages 1274 and 1275:

“It would be evident from the above decisions that each of them starts with the indisputable proposition that there is no legal bar for both proceedings to go on simultaneously and then say that in certain situations, it may not be ‘desirable’ ‘advisable’ or ‘appropriate’ to proceed with the

disciplinary enquiry when a criminal case is pending on identical charges. The staying of disciplinary proceedings, it is emphasised, is a matter to be determined having regard to the facts and circumstances of a given case and that no hard and fast rules can be enunciated in that behalf. The only ground suggested in the above decisions as constituting a valid ground for staying the disciplinary proceeding is 'that the defence of the employee in the criminal case may not be prejudiced.' This ground has, however, been hedged in by providing further that this may be done in cases of grave nature involving questions of fact and law. In our respectful opinion, it means that not only the charges must be grave but that the case must involve complicated questions of law and fact. Moreover, 'advisability', 'desirability' or 'propriety', as the case may be, has to be determined in each case taking into consideration all the facts and circumstances of the case. The ground indicated in *Delhi Cloth and General Mills, Ltd.* (vide supra) and *Tata Oil Mills* [A.I.R. 1965 S.C. 155], is also not an invariable rule. It is only a factor which will go into the scales while judging the advisability or desirability of staying the disciplinary proceedings. One of the contending consideration is that the disciplinary enquiry cannot be — and should not be — delayed unduly. So far as criminal cases are concerned, it is well-known that they drag on endlessly where high officials or persons holding high public offices are involved. They get bogged down on one or the other ground. They hardly ever reach a prompt conclusion. That is the reality in spite of repeated advice and admonitions from this Court and the High Courts. If a criminal case is unduly delayed that may itself be a good ground for going ahead with the disciplinary enquiry even where the disciplinary proceedings are held over at an earlier stage, the interests of administration and good Government demand that these proceedings are concluded expeditiously. It must be remembered that interests of administration demand that undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. *The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements.* The interest of the delinquent officer also lies in a prompt

conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanour should be continued in office indefinitely, *i.e.*, for long periods awaiting the result of criminal proceedings. It is not in the interest of administration. It only serves the interest of the guilty and dishonest. While it is not possible to enumerate the various factors, for and against the stay of disciplinary proceedings, we found it necessary to emphasise some of the important considerations in view of the fact that very often the disciplinary proceedings are being stayed for long periods pending criminal proceedings. Stay of disciplinary proceedings cannot be, and should not be, a matter of course. All the relevant factors, for and against, should be weighed and a decision taken keeping in view the various principles laid down in the decisions referred to above.”

11. In *Capt. M. Paul Anthony v. Bharat Gold Mines, Ltd.* [1999 (2) L.L.N. 640], the Supreme Court after considering all the judgments held, in Para. 22, at pages 647 and 648

“The conclusions which are deductible from various decisions of this Court referred to above are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously though separately.
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the chargesheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

12. In *State Bank of India v. R.B. Sharma* [2004 (4) L.L.N. 36], the Supreme Court held, in Paras. 7 and 8, at pages 38 and 39:

“7. It is fairly well settled position in law that on basic principles proceedings in criminal case and departmental proceedings can go on simultaneously, except where departmental proceedings and criminal case are based on the same set of facts and the evidence in both the proceedings is common.

8. The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The *cnnurai* prosecution is launched for an offence for violation of a duty, the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Indian Evidence Act, 1872 (in short the Evidence Act). Converse is the case of departmental enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the

delinquent officer to punish him or his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. Under these circumstances, what is required to be seen is whether the department enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.”

13. The law as enunciated by the Supreme Court leaves no scope for doubt that all said and done, there is no bar for simultaneous proceedings being taken against the delinquent in the form of criminal action and also disciplinary proceedings unless the charges are extremely serious and grave requiring the judicial determination in preference to the verdict in the domestic inquiry proceedings. In the instant case, even though the criminal action and disciplinary proceedings are grounded upon the same sets of fact, in my view, there is no provision of law empowering the Court to stay the departmental proceedings merely because criminal prosecution is pending in the criminal Court. In my opinion, the purpose of the two proceedings are quite different. The object of the departmental proceedings is to ascertain whether the delinquent is required to be retained in service or not. On the other hand the object of criminal prosecution is to find out whether the offence in the penal statute has been made out or not. Therefore, the area covered by the two proceedings are not identical. The object in both the proceedings are different. Whereas, the departmental proceedings are taken to maintain the discipline and the efficiency in the service, the criminal proceedings are initiated to punish a person for committing an offence violating any public duty. The Supreme Court has clearly stated that where the case is of a grave nature and involves questions of fact and law, in that event it would be advisable for the employer to await the decision of a criminal Court. In the present case, there is no complicated questions of fact and law involved, nor any evidence has been led by the petitioner to show as to how he was prejudiced in the continuance of the departmental proceedings. Nothing has been shown by the petitioner as to how the proceedings in a criminal trial would be prejudiced in the event the domestic inquiry was not stayed.

25. In **G.M. Tank v. State of Gujarat and Ors.**¹⁰ the Supreme Court applied the ratio of **Capt. M. Paul Anthony(supra)** only in view of the fact that the facts of the two cases were congruent. After noticing the facts of **Capt. M. Paul Anthony(supra)** and facts at hand in **G.M. Tank(supra)** the Supreme Court held:

“30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

31. In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in *Paul Anthony case* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.”

26. However, the ratio in **Capt. M. Paul Anthony(supra)** was construed from a different perspective and manner by the Supreme Court in **The Divisional Controller, KSRTC v. M.G. Vittal Rao**¹¹ by holding:

“17. In *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810 : AIR 1999 SC 1416] this Court held that there can be no bar for continuing both the proceedings simultaneously. The Court placed reliance upon a large number of its earlier judgments, including *Delhi Cloth and General Mills Ltd. v. Kushal Bhan* [AIR 1960 SC 806] , *Tata Oil Mills Co. Ltd. v. Workmen* [AIR 1965 SC 155] , *Jang Bahadur Singh v. Baij Nath Tiwari* [AIR 1969 SC 30 : 1969 Cri LJ 267] , *Kusheshwar Dubey v. Bharat Coking Coal Ltd.* [(1988) 4 SCC 319 : 1988 SCC (L&S) 950 : AIR 1988 SC 2118] , *Nelson Motis* [(1992) 4 SCC 711 : 1993 SCC (L&S) 13 : (1993) 23 ATC 382 : AIR 1992 SC 1981] and *B.K. Meena* [(1996) 6 SCC 417 : 1996 SCC (L&S) 1455 : AIR 1997 SC 13] , and held that proceedings in a criminal case and departmental proceedings can go on simultaneously except where both the proceedings are based on the *same set of facts and the evidence in both the proceedings is common*. In departmental proceedings, factors prevailing in the mind of the disciplinary authority may be many, such as

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enforcement of discipline or to investigate the level of integrity of the delinquent or the other staff. The standard of proof required in those proceedings is also different from that required in a criminal case. While in departmental proceedings, the standard of proof is one of preponderance of probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubt. Where the charge against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it is desirable to stay the departmental proceedings till conclusion of the criminal case. In case the criminal case does not proceed expeditiously, the departmental proceedings cannot be kept in abeyance for ever and may be resumed and proceeded with so as to conclude the same at an early date. The purpose is that if the employee is found not guilty his cause may be vindicated, and in case he is found guilty, the administration may get rid of him at the earliest.

18. However, while deciding the case, taking into consideration the facts involved therein, the Court held : (*Capt. M. Paul Anthony case* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810 : AIR 1999 SC 1416] , SCC p. 695, para 35)

“35. Since the facts and the evidence in both the proceedings, namely, the departmental proceedings and the criminal case were the same without there being any iota of difference, the distinction, which is usually drawn as between the departmental proceedings and the criminal case on the basis of approach and burden of proof, would not be applicable to the instant case.”

19. In *SBI v. R.B. Sharma* [(2004) 7 SCC 27 : 2004 SCC (L&S) 913 : AIR 2004 SC 4144] , same view has been reiterated observing that both proceedings can be held simultaneously, except where departmental proceedings in criminal case are based on same set of facts and evidence in both the proceedings is common. The Court observed as under : (SCC p. 31, para 8)

“8. The purpose of departmental enquiry and of prosecution are two different and distinct aspects. Criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the

public. So crime is an act of commission in violation of law or of omission of [a] public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service.”

20. While deciding the said case a very heavy reliance has been placed upon the earlier judgment of this Court in *A.P. SRTC v. Mohd. Yousuf Miya* [(1997) 2 SCC 699 : 1997 SCC (L&S) 548 : AIR 1997 SC 2232] , wherein it has been held that both proceedings can be held simultaneously unless the gravity of the charges demand staying the disciplinary proceedings till the trial is concluded as complicated questions of fact and law are involved in that case.

21. A similar view has been reiterated by this Court in *Supdt. of Post Offices v. A. Gopalan* [(1997) 11 SCC 239 : 1998 SCC (L&S) 124 : AIR 1999 SC 1514] , *Kendriya Vidyalaya Sangathan v. T. Srinivas* [(2004) 7 SCC 442 : 2004 SCC (L&S) 1011 : AIR 2004 SC 4127] , *Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh* [(2004) 8 SCC 200 : 2004 SCC (L&S) 1067] , *Commr. of Police v. Narender Singh* [(2006) 4 SCC 265 : 2006 SCC (L&S) 686 : AIR 2006 SC 1800] , *South Bengal State Transport Corpn. v. Sapan Kumar Mitra* [(2006) 2 SCC 584 : 2006 SCC (L&S) 553] and *Punjab Water Supply Sewerage Board v. Ram Sajivan* [(2007) 9 SCC 86 : (2007) 2 SCC (L&S) 668] .

22. In *Union of India v. Naman Singh Shekhawat* [(2008) 4 SCC 1 : (2008) 1 SCC (L&S) 1053] this Court held that departmental proceeding can be initiated after acquittal by the criminal court. However, the departmental proceeding should be initiated provided the department intended to adduce any evidence which could prove the charges against the delinquent officer. Therefore, initiation of proceeding should be bona fide and must be reasonable and fair.

23. In *Pandiyam Roadways Corpn. Ltd. v. N. Balakrishnan* [(2007) 9 SCC 755 : (2008) 1 SCC (L&S) 1084] , this Court reconsidered the issue taking into account all earlier judgments and observed as under : (SCC pp. 766-67, paras 21-22)

“21. There are evidently two lines of decisions of this Court operating in the field. One being the cases which would come within the purview of *Capt. M. Paul Anthony v.*

Bharat Gold Mines Ltd. [(1999) 3 SCC 679 : 1999 SCC (L&S) 810 : AIR 1999 SC 1416] and *G.M. Tank v. State of Gujarat* [(2006) 5 SCC 446 : 2006 SCC (L&S) 1121] . However, the second line of decisions show that an honourable acquittal in the criminal case itself may not be held to be determinative in respect of order of punishment meted out to the delinquent officer, inter alia, when : (i) the order of acquittal has not been passed on the same set of facts or same set of evidence; (ii) the effect of difference in the standard of proof in a criminal trial and disciplinary proceeding has not been considered (see *Commr. of Police v. Narender Singh* [(2006) 4 SCC 265 : 2006 SCC (L&S) 686 : AIR 2006 SC 1800]), or; where the delinquent officer was charged with something more than the subject-matter of the criminal case and/or covered by a decision of the civil court (see *G.M. Tank* [(2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , *Jasbir Singh v. Punjab & Sind Bank* [(2007) 1 SCC 566 : (2007) 1 SCC (L&S) 401] and *Noida Entrepreneurs Assn. v. Noida* [(2007) 10 SCC 385 : (2008) 1 SCC (L&S) 672 : (2008) 1 SCC (Cri) 792] , SCC at p. 394, para 16).

22. ... ‘41. We may not be understood to have laid down a law that in all such circumstances the decision of the civil court or the criminal court would be binding on the disciplinary authorities as this Court in a large number of decisions points out that the same would depend upon other factors as well. (See e.g. *Krishnakali Tea Estate* [(2004) 8 SCC 200 : 2004 SCC (L&S) 1067] and *RBI v. S. Mani* [(2005) 5 SCC 100 : 2005 SCC (L&S) 609] .) Each case is, therefore, required to be considered on its own facts.’ [Ed. : As observed in *Narinder Mohan Arya v. United India Insurance Co. Ltd.*, (2006) 4 SCC 713 at p. 695, para 41.] ”

(See also *Ram Tawekya Sharma v. State of Bihar* [(2008) 8 SCC 261 : (2008) 2 SCC (L&S) 706] and *Roop Singh Negi v. Punjab National Bank* [(2009) 2 SCC 570 : (2009) 1 SCC (L&S) 398] .)

24. Thus, there can be no doubt regarding the settled legal proposition that as the standard of proof in both the proceedings is quite different, and the termination is not based on mere conviction of an employee in a criminal case, the acquittal of the employee in a criminal case cannot be the basis of taking away the effect of

departmental proceedings. Nor can such an action of the department be termed as double jeopardy. The judgment of this Court in *Capt. M. Paul Anthony* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810 : AIR 1999 SC 1416] does not lay down the law of universal application. Facts, charges and nature of evidence, etc. involved in an individual case would determine as to whether decision of acquittal would have any bearing on the findings recorded in the domestic enquiry.”

27. The question that arose for consideration before the Supreme Court in **State of Rajasthan and Ors. vs. Phool Singh**¹² is whether the acquittal in a criminal trial on identical set of charges would entail automatic reinstatement in service. In **Phool Singh (supra)** the ratio of **Capt. M. Paul Anthony(supra)** was considered in an authoritative and explicit manner. According to **Phool Singh (supra)** the holding in **Capt. M. Paul Anthony(supra)** was confined to the unique facts of the said case as opposed to a universal principal of law.

28. In this sense the Supreme Court above said proposition of law laid down in **Phool Singh (supra)** resonated well with the view taken by the learned single Judge of this Court in **Kailash Chandra-II(supra)**. The following proposition of law laid down in **Phool Singh(supra)**:

“13. The question before this Court is therefore only to see whether the respondent can be reinstated in service for the reason that now on the same set of charges he has been acquitted by a criminal court?

14. There should be no ambiguity in law on this subject. 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.

15. Be that as it may, a delinquent employee after his dismissal from service, nevertheless, seeks reinstatement when he is acquitted by a criminal court on the same set of charges and facts. A very heavy reliance is then placed on a decision of this Court given in *M. Paul Anthony v. Bharat Gold Mines Ltd.* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] Reliance was placed on this decision by the present respondent as well, before the learned Single Judge, as well as before the Division Bench of the Rajasthan High Court. Both the courts have relied on this judgment while giving their decision in favour of the respondent. In *M. Paul Anthony* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] , this Court had indeed held that as the petitioner before them had been acquitted on the same set of charges by a criminal court, he should be reinstated in service, though he was dismissed from service after facing a departmental proceeding. But then the case of *M. Paul Anthony* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] must be appreciated in the background of its unique facts.

16. Capt. M. Paul Anthony was working in the year 1985 as a “Security Officer” with “Bharat Gold Mines Ltd.”, which was engaged in the mining of gold in the Kolar Gold Mines in Karnataka. On 2-6-1985 a raid was conducted by the Superintendent of Police at the residence of Capt. M. Paul Anthony (whom we should refer here also as “the petitioner”), from where a sponge gold ball weighing 4.5 grams and 1276 grams of “gold bearing sand” were recovered. He was immediately suspended from his services and the same day an FIR was registered. The next day the petitioner received a charge-sheet and hence departmental proceedings were also initiated against him.

The petitioner then moved an application before his disciplinary authorities praying that the departmental proceedings be stayed till the conclusion of the criminal proceedings, but his request was turned down. Meanwhile he returned to his home State of Kerala and requested for an adjournment of the disciplinary proceedings. This request was also turned down. The departmental proceedings went ex parte against the petitioner where he was found guilty of misconduct. On 7-6-1986, the petitioner was dismissed from service. During his entire period of suspension, he was not given any subsistence allowance.

17. On 3-2-1987, Capt. M. Paul Anthony was acquitted in the criminal trial, on the grounds that the prosecution had failed to establish its case, particularly the police raid on which the entire case was based. The petitioner, immediately after his acquittal, placed a copy of the judgment of the criminal court before his departmental authorities and prayed for his reinstatement. This was denied and consequently the petitioner filed a departmental appeal which was also dismissed. He then approached the High Court of Karnataka, where his writ petition was allowed by the Court and his reinstatement was ordered on the ground that on the same set of charges, the petitioner has been acquitted by a criminal court and hence he must be reinstated in service. The State filed a special appeal before the Division Bench which was allowed and the order of the learned Single Judge was set aside. The petitioner (Capt. M. Paul Anthony) then challenged the order of the Division Bench of the Karnataka High Court before this Court.

18. There were two factors which weighed with the Supreme Court, while deciding that case. The first was the admitted fact that the petitioner was not given any subsistence allowance during his period of suspension and therefore, he was not in a position to face the departmental proceedings in Karnataka while he was residing in Kerala. The second aspect was that the petitioner was being charged on the same set of facts in the two proceedings and therefore, he had made request to the departmental authorities to stay the departmental proceedings till the conclusion of the criminal case, a request which was denied.

19. This aspect seems to be the most important factor weighing in the mind of this Court, as this Court was of the opinion that the charges, (both in the criminal court and with the department), involved a complicated question of fact and law, relating to the “raid” made by the police, and therefore the departmental proceedings should have been stayed and it should have awaited the result of the criminal proceedings. It was in the raid made by the Police that the “Gold sponge ball” and “Gold bearing sand” were allegedly recovered from his residence. This factum of “raid and recovery” which was the fulcrum of the case, stood disproved. Under these circumstances, it was held that the petitioner was liable to be reinstated. *M. Paul Anthony [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810]* thus must be appreciated for its unique facts and to our mind it does not lay down a law of universal application.

20. We say this because as against *M. Paul Anthony [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810]*, we have a large number of cases where this Court has consistently held that the two proceedings i.e. criminal and departmental, are entirely different and merely because one has been acquitted in a criminal trial that itself will not result in the reinstatement in service when one has been found guilty in a departmental proceeding. We may refer to a few of these decisions.

28. There are other authorities in point which may be referenced with profit before a composite view of the case laws in point can be examined. The distinction between criminal proceedings and departmental enquiry was examined by the Supreme Court in **State Bank of India and Ors. v. P. Zadenga**¹³ by holding:

“31. As a principle of law, we have already observed that a departmental proceeding pending criminal trial would not warrant an automatic stay unless, of course, a complicated question of law is involved. Also, acquittal in a criminal case ipso facto would not be tantamount to closure or

culmination of proceedings in favour of a delinquent employee.

33. It is seen that the officer neither pleaded nor indicated the prejudice caused to him as a consequence of the initiation of criminal proceedings or simultaneous continuation of both proceedings.

35. Further, it is not the case of the delinquent employee that the principles of natural justice were not complied with in the disciplinary proceedings of the bank.

36. Both these aspects, taken along with the fact that it is not mandatory to stay the disciplinary proceedings, particularly when they have been initiated after the prescribed period of one year, we cannot bring ourselves to agree with the courts below. The restriction within Clause 4 is not complete and is to be applied on facts. In such a situation, the Division Bench's reliance on *United Commercial Bank v. P.C. Kakkar* [*United Commercial Bank v. P.C. Kakkar*, (2003) 4 SCC 364 : 2003 SCC (L&S) 468] is entirely misconceived. Contrary to the conclusion arrived at by the High Court in writ appeal, *Kakkar* [*United Commercial Bank v. P.C. Kakkar*, (2003) 4 SCC 364 : 2003 SCC (L&S) 468] furthers the position of the appellant Bank as it states : (SCC p. 377, para 15)

“15. ... Acquittal in the criminal case is not determinative of the commission of misconduct or otherwise, and it is open to the authorities to proceed with the disciplinary proceedings, notwithstanding acquittal in the criminal case.”

41. The nature of proceedings being wholly separate and distinct, acquittal in criminal proceedings does not entitle the delinquent employee for any benefit in the latter or automatic discharge in departmental proceedings.”

29. The question of prejudice caused to an employee in the criminal trial when he takes a stand in a departmental proceedings pending the criminal trial was examined in light of various authorities by the Supreme Court in

Eastern Coalfields Limited and Ors. v. Rabindra Kumar Bharti¹⁴ by holding:

“9. It is pointed out that the charges, the witnesses and evidence in the criminal case and also in the departmental proceedings are the same. He relied on *M. Paul Anthony v. Bharat Gold Mines Ltd.* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] In *M. Paul Anthony* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] it was held as follows : (SCC pp. 690-91, paras 20-21)

“20. This decision has gone two steps further than the earlier decisions by providing:

1. The “advisability”, “desirability” or “propriety” of staying the departmental proceedings ‘go into the scales while judging the advisability or desirability of staying the disciplinary proceedings’ merely as one of the factors which cannot be considered in isolation of other circumstances of the case. But the charges in the criminal case must, in any case, be of a grave and serious nature involving complicated questions of fact and law.

2. One of the contending considerations would be that the disciplinary enquiry cannot—and should not be—delayed unduly. If the criminal case is unduly delayed, that may itself be a good ground for going ahead with the disciplinary enquiry even though the disciplinary proceedings were held over at an earlier stage. It would not be in the interests of administration that persons accused of serious misdemeanour should be continued in office indefinitely awaiting the result of criminal proceedings.

21. In another case, namely, *A.P. SRTC v. Mohd. Yousuf Miya* [*A.P. SRTC v. Mohd. Yousuf Miya*, (1997) 2 SCC 699 : 1997 SCC (L&S) 548] again it was held that there is no bar to proceed simultaneously with the departmental enquiry and trial of a criminal case unless the charge in the criminal case is of a grave nature involving complicated questions of fact and law.”

10. We may further notice that in the said judgment this Court took note of the judgment in *State of Rajasthan v. B.K. Meena* [*State of Rajasthan v. B.K. Meena*, (1996) 6

SCC 417 : 1996 SCC (L&S) 1455] wherein it was inter alia held as follows : (SCC p. 422, para 14)

“14. ... The only ground suggested in the above decisions as constituting a valid ground for staying the disciplinary proceedings is that ‘the defence of the employee in the criminal case may not be prejudiced’. This ground has however been hedged by providing further that this may be done in cases of grave nature involving questions of fact and law.”

11. In *Pandiyam Roadways Corpn. Ltd. v. N. Balakrishnan* [*Pandiyam Roadways Corpn. Ltd. v. N. Balakrishnan*, (2007) 9 SCC 755 : (2008) 1 SCC (L&S) 1084] this Court noticed two different streams of judicial views : (SCC p. 766, para 21)

“21. There are evidently two lines of decisions of this Court operating in the field. One being the cases which would come within the purview of *M. Paul Anthony v. Bharat Gold Mines Ltd.* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] and *G.M. Tank v. State of Gujarat* [*G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] . However, the second line of decisions show that an honourable acquittal in the criminal case itself may not be held to be determinative in respect of order of punishment meted out to the delinquent officer, inter alia, when : (i) the order of acquittal has not been passed on the same set of facts or same set of evidence; (ii) the effect of difference in the standard of proof in a criminal trial and disciplinary proceeding has not been considered (see *Commr. of Police v. Narender Singh* [*Commr. of Police v. Narender Singh*, (2006) 4 SCC 265 : 2006 SCC (L&S) 686]), or; where the delinquent officer was charged with something more than the subject-matter of the criminal case and/or covered by a decision of the civil court (see *G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , *Jasbir Singh v. Punjab & Sind Bank* [*Jasbir Singh v. Punjab & Sind Bank*, (2007) 1 SCC 566 : (2007) 1 SCC (L&S) 401] and *Noida Entrepreneurs Assn. v. Noida* [*Noida Entrepreneurs Assn. v. Noida*, (2007) 10 SCC 385 : (2008) 1 SCC (Cri) 792 : (2008) 1 SCC (L&S) 672] , SCC para 18).”

12. We may notice a recent judgment in *Karnataka Power Transmission Corpn. Ltd. v. C. Nagaraju* [*Karnataka Power Transmission Corpn. Ltd. v. C. Nagaraju*, (2019) 10 SCC 367 : (2020) 1 SCC (L&S) 92] wherein it was inter alia held : (SCC p. 371, para 9)

“9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. [*Ajit Kumar Nag v. Indian Oil Corpn. Ltd.*, (2005) 7 SCC 764 : 2005 SCC (L&S) 1020] In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are significantly distinct and different. [*State of Rajasthan v. B.K. Meena*, (1996) 6 SCC 417 : 1996 SCC (L&S) 1455] ”

13. We would notice that this is a case where there is a criminal case against the respondent. The appellant(s) as employer also launched disciplinary proceedings. It is undoubtedly true that this Court has taken the view that when the charges are identical and give rise to complicated issues of fact and law and evidence is the same, it may not be appropriate to proceed simultaneously in disciplinary proceedings, along with the criminal case. The rationale behind the principle largely is that the employee who is facing the disciplinary proceeding would necessarily have to take a stand. This in turn would amount to revealing his defence and therefore prejudice the employee in the criminal proceedings. No doubt, this Court has laid down that it is not an absolute embargo and the principle is one to be applied based on the facts of each case.”

30. Similarly, the distinct objects of departmental enquiry and criminal prosecution was considered by the Supreme

Court in **Karnataka Power Transmission Corporation Limited v. C. Nagaraju and Ors.**¹⁵ and the Court went on to hold:

“10. As the High Court set aside the order of dismissal on the basis of the judgments of this Court in *M. Paul Anthony* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] and *G.M. Tank* [*G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , it is necessary to examine whether the said judgments are applicable to the facts of this case. Simultaneous continuance of departmental proceedings and proceedings in a criminal case on the same set of facts was the point considered by this Court in *M. Paul Anthony case* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] . This Court was of the opinion that departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar. However, it is desirable to stay departmental inquiry till conclusion of the criminal case if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact. On the facts of the said case, it was found that the criminal case and the departmental proceedings were based on identical set of facts and the evidence before the criminal court and the departmental inquiry was the same. Further, in the said case the departmental inquiry was conducted ex parte. In such circumstances, this Court held that the ex parte departmental proceedings cannot be permitted to stand in view of the acquittal of the delinquent by the criminal court on the same set of facts and evidence. The said judgment is not applicable to the facts of this case. In the present case, the prosecution witnesses turned hostile in the criminal trial against Respondent 1. He was acquitted by the criminal court on the ground that the prosecution could not produce any credible evidence to prove the charge. On the other hand, the complainant and the other witnesses appeared before the inquiry officer and deposed against Respondent 1. The evidence available in the departmental inquiry is

15 (2019) 10 SCC 367

completely different from that led by the prosecution in criminal trial.

13. Having considered the submissions made on behalf of the appellant and Respondent 1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in the departmental inquiry is different from that produced during the criminal trial. The object of a departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a departmental inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the inquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needed no interference by the High Court.”

31. Similar view was taken on the issue of parallel continuance of criminal and departmental proceedings by the Supreme Court in **Shashi Bhusan Prasad v. Inspector General Central Industrial Security Force and Ors.**¹⁶ when it directed the continuance of the stay of disciplinary proceedings as directed by the High Court in the facts of the case. However, directions were issued to the trial Judge to conclude the trial in an expeditious time frame. The said case does not lay down any binding proposition of law and was ordered in the peculiar situation of the case and to balance the equities.

32. The differences between a departmental enquiry and criminal trial were highlighted by the Supreme Court in **Baljinder Pal Kaur vs. State of Punjab and Ors.**¹⁷ by citing various authorities which had earlier held the field:

“10. In *Commr. of Police v. Mehar Singh* [(2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910] , this Court, in para 24, has observed as under : (SCC p. 699) “24. ... While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit.”

11. In *Inspector General of Police v. S. Samuthiram* [(2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] , this Court, in para 26, has held as under : (SCC pp. 609-610)

“26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to

17 (2016) 1 SCC 671

say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.”

12. In *Union of India v. Bihari Lal Sidhana* [(1997) 4 SCC 385 : 1997 SCC (L&S) 1076] , this Court has observed that it is true that the respondent was acquitted by the criminal court but acquittal does not automatically gave him the right to be reinstated into the service.”

33. Examining the justification of staying an ongoing disciplinary proceedings being the conclusion of the trial court in the criminal case, the Supreme Court in **Stanzen Toyotetsu India P. Ltd. vs. Girish V. and Ors.**¹⁸ reiterated the distinction between a criminal trial and a departmental enquiry and the need to balance the demand for a fair trial to the accused and the requirement of an expeditious conclusion of a disciplinary enquiry by holding:

“8. The only question that falls for determination in the above backdrop is whether the courts below were justified in staying the ongoing disciplinary proceedings pending conclusion of the trial in the criminal case registered and filed against the respondents. The answer to that question would primarily depend upon whether there is any legal bar to the continuance of the disciplinary proceedings against the employees based on an incident which is also the subject-matter of criminal case against such employees. It would also depend upon the nature of the charges in the criminal case filed against the employees and whether the case involves complicated questions of law and fact. The possibility of prejudice to the employees accused in the criminal case on account of the parallel disciplinary enquiry going ahead is another dimension which will have to be addressed while permitting or staying such disciplinary enquiry proceedings. The law on the subject is fairly well settled for similar issues and has often engaged the

18 (2014) 3 SCC 636

attention of this Court in varied fact situations. Although the pronouncements of this Court have stopped short of prescribing any straitjacket formula for application to all cases, the decisions of this Court have identified the broad approach to be adopted in such matters leaving it for the courts concerned to take an appropriate view in the peculiar facts and circumstances of each case that comes up before them. Suffice it to say that there is no short-cut solution to the problem. What is, however, fairly well settled and was not disputed even before us is that there is no legal bar to the conduct of the disciplinary proceedings and a criminal trial simultaneously.

9. In *A.P. SRTC v. Mohd. Yousuf Miya* [(1997) 2 SCC 699 : 1997 SCC (L&S) 548] this Court declared that the purpose underlying departmental proceedings is distinctly different from the purpose behind prosecution of offenders for commission of offences by them. While criminal prosecution for an offence is launched for violation of a duty that the offender owes to the society, departmental enquiry is aimed at maintaining discipline and efficiency in service. The difference in the standard of proof and the application of the rules of evidence to one and inapplicability to the other was also explained and highlighted only to explain that conceptually the two operate in different spheres and are intended to serve distinctly different purposes.

10. The relatively recent decision of this Court in *Karnataka SRTC v. M.G. Vittal Rao* [(2012) 1 SCC 442 : (2012) 1 SCC (L&S) 171] , is a timely reminder of the principles that are applicable in such situations succinctly summed up in the following words:

“(i) There is no legal bar for both the proceedings to go on simultaneously.

(ii) The only valid ground for claiming that the disciplinary proceedings may be stayed would be to ensure that the defence of the employee in the criminal case may not be prejudiced. But even such grounds would be available only in cases involving complex questions of facts and law.

(iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.

(iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common.”

34. In **The Deputy Inspector General of Police and Ors. v. S. Samuthiram**¹⁹ the Supreme Court held that the issue of reinstatement based clearly upon criminal court would depend on relevant service Rules. The judgement laid down the following proposition after considering the oft quoted authorities in point:

“18. We may indicate that before the order of acquittal was passed by the criminal court on 20-11-2000, the departmental enquiry was completed and the respondent was dismissed from service on 4-1-2000. The question is : when the departmental enquiry has been concluded resulting in the dismissal of the delinquent from service, whether the subsequent finding recorded by the criminal court acquitting the respondent delinquent will have any effect on the departmental proceedings?

19. The propositions which the respondent wanted to canvass placing reliance on the judgment in *M. Paul Anthony case* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] read as follows : (SCC p. 691, para 20)

“(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law

are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.”

20. This Court in *Southern Railway Officers Assn. v. Union of India* [(2009) 9 SCC 24 : (2009) 2 SCC (L&S) 552] held that acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority. The Court reiterated that the order of dismissal can be passed even if the delinquent officer had been acquitted of the criminal charge.

21. In *State Bank of Hyderabad v. P. Kata Rao* [(2008) 15 SCC 657 : (2009) 2 SCC (L&S) 489] (SCC p. 662, para 18) this Court held that there cannot be any doubt whatsoever that the jurisdiction of the superior courts in interfering with the finding of fact arrived at by the enquiring officer is limited and that the High Court would also ordinarily not interfere with the quantum of punishment and there cannot be any doubt or dispute that only because the delinquent employee who was also facing a criminal charge stands acquitted, the same, by itself, would not debar the disciplinary authority in initiating a fresh departmental proceeding and/or where the departmental proceedings had already been initiated, to continue therewith. In that judgment, this Court further held as follows : (SCC p. 662, para 20)

“20. The legal principle enunciated to the effect that on the same set of facts the delinquent shall not be proceeded in a departmental proceedings and in a criminal case

simultaneously, has, however, been deviated from. The dicta of this Court in *M. Paul Anthony v. Bharat Gold Mines Ltd.* [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] however, remains unshaken although the applicability thereof had been found to be dependent on the fact situation obtaining in each case.”

22. In a later judgment of this Court in *Karnataka SRTC v. M.G. Vittal Rao* [(2012) 1 SCC 442 : (2012) 1 SCC (L&S) 171] this Court after a detailed survey of various judgments rendered by this Court on the issue with regard to the effect of criminal proceedings on the departmental enquiry, held that the disciplinary authority imposing the punishment of dismissal from service cannot be held to be disproportionate or non-commensurate to the delinquency.

23. We are of the view that the mere acquittal of an employee by a criminal court has no impact on the disciplinary proceedings initiated by the Department. The respondent, it may be noted, is a member of a disciplined force and non-examination of two key witnesses before the criminal court that is Adiyodi and Peter, in our view, was a serious flaw in the conduct of the criminal case by the prosecution. Considering the facts and circumstances of the case, the possibility of winning over PWs 1 and 2 in the criminal case cannot be ruled out. We fail to see, why the prosecution had not examined Head Constable Adiyodi (No. 1368) and Peter (No. 1079) of Tenkasi Police Station. It was these two Head Constables who took the respondent from the scene of occurrence along with PWs 1 and 2, husband and wife, to Tenkasi Police Station and it is in their presence that the complaint was registered. In fact, the criminal court has also opined that the signature of PW 1 (complainant husband) is found in Ext. P-1 complaint. Further, the doctor, PW 8 has also clearly stated before the enquiry officer that the respondent was under the influence of liquor and that he had refused to undergo blood and urine tests. That being the factual situation, we are of the view that the respondent was not honourably acquitted by the criminal court, but only due to the fact that PW 1 and PW 2 turned hostile and other prosecution witnesses were not examined.

24. The meaning of the expression “honourable acquittal” came up for consideration before this Court in *RBI v. Bhopal Singh Panchal* [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

25. In *R.P. Kapur v. Union of India* [AIR 1964 SC 787] it was held that even in the case of acquittal, departmental proceedings may follow where the acquittal is other than honourable. In *State of Assam v. Raghava Rajgopalachari* [1972 SLR 44 (SC)] this Court quoted with approval the views expressed by Lord Williams, J. in *Robert Stuart Wauchope v. Emperor* [ILR (1934) 61 Cal 168] which is as follows : (*Raghava case* [1972 SLR 44 (SC)] , SLR p. 47, para 8)

“8. ... ‘The expression “honourably acquitted” is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extrajudicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further, we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what government authorities term “honourably acquitted”.’” (*Robert Stuart case* [ILR (1934) 61 Cal 168] , ILR pp. 188-89)

26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.

27. We have also come across cases where the service rules provide that on registration of a criminal case, an employee can be kept under suspension and on acquittal by the criminal court, he be reinstated. In such cases, the reinstatement is automatic. There may be cases where the service rules provide that in spite of domestic enquiry, if the criminal court acquits an employee honourably, he could be reinstated. In other words, the issue whether an employee has to be reinstated in service or not depends upon the question whether the service rules contain any such provision for reinstatement and not as a matter of right. Such provisions are absent in the Tamil Nadu Service Rules.

28. In view of the abovementioned circumstances, we are of the view that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings as against the respondent, in its limited jurisdiction under Article 226 of the Constitution of India.”

35. The judgement rendered by the Supreme Court in **Roop Singh Negi v. Punjab National Bank and Ors.**²⁰ was on peculiar facts where it was found that the enquiry officer had made the findings which were not supported by any evidence.

36. The distinction between a departmental enquiry and criminal proceedings was emphasized in **Noida Entrepreneurs Assn. v. Noida and Ors.**²¹ by holding:

“11. A bare perusal of the order which has been quoted in its totality goes to show that the same is not based on any rational foundation. The conceptual difference between a departmental enquiry and criminal proceedings has not been kept in view. Even orders passed by the executive have to be tested on the touchstone of reasonableness. [See *Tata Cellular v. Union of India* [(1994) 6 SCC 651] and *Teri Oat Estates (P) Ltd. v. U.T., Chandigarh* [(2004) 2 SCC 130] .] The conceptual difference between departmental proceedings and criminal proceedings have been highlighted by this Court in several cases. Reference may be made to *Kendriya Vidyalaya Sangathan v. T. Srinivas* [(2004) 7 SCC 442 : 2004 SCC (L&S) 1011] , *Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry* [(2005) 10 SCC 471 : 2005 SCC (Cri) 1605] and *Uttaranchal RTC v. Mansaram Nainwal* [(2006) 6 SCC 366 : 2006 SCC (L&S) 1341] .

“8. ... The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in

20 (2009) 2 SCC 570

21 (2007) 10 SCC 385

the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Indian Evidence Act, 1872 [in short 'the Evidence Act']. Converse is the case of departmental enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. ... Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.”

A three-Judge Bench of this Court in *Depot Manager, A.P. SRTC v. Mohd. Yousuf Miya* [(1997) 2 SCC 699 : 1997 SCC (L&S) 548] (SCC pp. 704-05, para 8) analysed the legal position in great detail on the above lines.

12. The aforesaid position was also noted in *State of Rajasthan v. B.K. Meena* [(1996) 6 SCC 417 : 1996 SCC (L&S) 1455] .

13. There can be no straitjacket formula as to in which case the departmental proceedings are to be stayed. There may be cases where the trial of the case gets prolonged by the dilatory method adopted by delinquent official. He cannot be permitted to, on one hand, prolong criminal case and at the same time contend that the departmental proceedings

should be stayed on the ground that the criminal case is pending.

14. In *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] this Court indicated some of the fact situations which would govern the question whether departmental proceedings should be kept in abeyance during pendency of a criminal case. In para 22 conclusions which are deducible from various decisions were summarised. They are as follows : (SCC p. 691, para 22)

“22. ... (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.”

15. The position in law relating to acquittal in a criminal case, its effect on departmental proceedings and reinstatement in service has been dealt with by this Court in *Union of India v. Bihari Lal Sidhana* [(1997) 4 SCC 385 : 1997 SCC (L&S) 1076] . It was held in para 5 as follows : (SCC pp. 387-88)

“5. It is true that the respondent was acquitted by the criminal court but acquittal does not automatically give him the right to be reinstated into the service. It would still be open to the competent authority to take decision whether the delinquent government servant can be taken into service or disciplinary action should be taken under the Central Civil Services (Classification, Control and Appeal) Rules or under the Temporary Service Rules. Admittedly, the respondent had been working as a temporary government servant before he was kept under suspension. The termination order indicated the factum that he, by then, was under suspension. It is only a way of describing him as being under suspension when the order came to be passed but that does not constitute any stigma. Mere acquittal of government employee does not automatically entitle the government servant to reinstatement. As stated earlier, it would be open to the appropriate competent authority to take a decision whether the enquiry into the conduct is required to be done before directing reinstatement or appropriate action should be taken as per law, if otherwise, available. Since the respondent is only a temporary government servant, the power being available under Rule 5(1) of the Rules, it is always open to the competent authority to invoke the said power and terminate the services of the employee instead of conducting the enquiry or to continue in service a government servant accused of defalcation of public money. Reinstatement would be a charter for him to indulge with impunity in misappropriation of public money.”

16. The standard of proof required in departmental proceedings is not the same as required to prove a criminal charge and even if there is an acquittal in the criminal proceedings the same does not bar departmental proceedings. That being so, the order of the State Government deciding not to continue the departmental

proceedings is clearly untenable and is quashed. The departmental proceedings shall continue.”

37. The two lines of the decision of the Supreme Court operating in the field as regards the consequences of acquittal by the trial court and on the departmental proceedings were noticed by the Supreme Court in **Pandiyan Roadways Corp. Ltd. v. N. Balakrishnan**²²:

“21. There are evidently two lines of decisions of this Court operating in the field. One being the cases which would come within the purview of *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] and *G.M. Tank v. State of Gujarat* [(2006) 5 SCC 446 : 2006 SCC (L&S) 1121] . However, the second line of decisions show that an honourable acquittal in the criminal case itself may not be held to be determinative in respect of order of punishment meted out to the delinquent officer, inter alia, when: (i) the order of acquittal has not been passed on the same set of facts or same set of evidence; (ii) the effect of difference in the standard of proof in a criminal trial and disciplinary proceeding has not been considered (see *Commr. of Police v. Narender Singh* [(2006) 4 SCC 265 : 2006 SCC (L&S) 686]), or; where the delinquent officer was charged with something more than the subject-matter of the criminal case and/or covered by a decision of the civil court (see *G.M. Tank* [(2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , *Jasbir Singh v. Punjab & Sind Bank* [(2007) 1 SCC 566 : (2007) 1 SCC (L&S) 401 : (2006) 11 Scale 204] and *Noida Entrepreneurs' Assn. v. Noida* [(2007) 10 SCC 385 : (2008) 1 SCC (Cri) 792 : (2008) 1 SCC (L&S) 672 : (2007) 2 Scale 131] , para 18).

22. In *Narinder Mohan Arya v. United India Insurance Co. Ltd.* [(2006) 4 SCC 713 : 2006 SCC (L&S) 840] this Court held: (SCC p. 729, paras 39-41)

“39. Under certain circumstances, a decision of a civil court is also binding upon the criminal court although, converse is not true. (See *Karam Chand Ganga Prasad v. Union of India* [(1970) 3 SCC 694] .) However, it is also true that the

standard of proof in a criminal case and civil case is different.

40. We may notice that in *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] , this Court observed: (SCC p. 695, para 35)

‘35. Since the facts and the evidence in both the proceedings, namely, the departmental proceedings and the criminal case were the same without there being any iota of difference, the distinction, which is usually drawn as between the departmental proceedings and the criminal case on the basis of approach and burden of proof, would not be applicable to the instant case.’

41. We may not be understood to have laid down a law that in all such circumstances the decision of the civil court or the criminal court would be binding on the disciplinary authorities as this Court in a large number of decisions points out that the same would depend upon other factors as well. See e.g. *Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh* [(2004) 8 SCC 200 : 2004 SCC (L&S) 1067] and *Manager, Reserve Bank of India v. S. Mani* [(2005) 5 SCC 100 : 2005 SCC (L&S) 609] . Each case is, therefore, required to be considered on its own facts.”

23. In *Delhi Cloth and General Mills Co. v. Ganesh Dutt* [(1972) 4 SCC 834] this Court stated: (SCC p. 842, para 31)

“31. Mr Sharma referred us to Para 40 of the Certified Standing Orders of the appellant Company Ext. M-4 to the effect that in the order deciding to dismiss the workman, the appellant Company has not taken into account, as it is bound to, the previous record, if any, of the workmen. This contention cannot be accepted because in the order dated May 9, 1966, communicated to each of the workmen, in the penultimate paragraph it has been stated that while arriving at the decision to dismiss the employees from the service for misconduct, all relevant circumstances including the past record of service, have been fully taken into consideration. So far as we could see, no challenge has been made by the workmen that the appellant has not taken into account his past record.”

24. We are, however, of the opinion that it is not a fit case where this Court should exercise its extraordinary jurisdiction under Article 136 of the Constitution of India. The respondent had been taken back in service in the year 1989. The occurrence took place in the year 1985. The application under Section 33(2)(b) of the Act was filed on 16-6-1986. It was rejected by an order dated 19-4-1989. The respondent, thereafter, was taken back in service. Despite the fact that the writ petition filed by the appellant was allowed on 8-10-1999, by reason of an interim order of stay granted by the Division Bench, he continued in his service. By reason of the impugned judgment, the Division Bench, as noticed hereinbefore, set aside the judgment of the learned Single Judge. The respondent is merely a Class IV employee, he does not hold any office of confidence. He was not charged with an offence of criminal breach of trust.

25. Thus, it is now well-settled principle of law that this Court shall not exercise its jurisdiction under Article 136 of the Constitution of India, only because it may be lawful to do so. [See *Transmission Corpn. of A.P. Ltd. v. Lanco Kondapalli Power (P) Ltd.* [(2006) 1 SCC 540] and *Chandra Singh v. State of Rajasthan* [(2003) 6 SCC 545 : 2003 SCC (L&S) 951].”

38. In the light of the case laws discussed above the relevant factors for determining the issue of staying the departmental proceedings during the pendency of the criminal trial will now be discussed.

VI. Criminal Trials and Departmental Enquiry:

General Observations:

39. A comparative study of the purpose, scope, procedure and standards of evidence in departmental enquiries and criminal trials is crucial for determining the feasibility or advisability of continuing the two proceedings simultaneously in the facts of this case.

40. Criminal trial is instituted to bring offenders of criminal laws to justice before a criminal court. The offences which are the subject matter of criminal trials are against the society at large and are determined by the legislature. The standard of evidence for proving the guilt in a criminal trial is beyond reasonable doubt. The agency which prosecutes the trial against the accused persons is the State/police. Criminal trials are strictly governed by rigorous procedure under the law and the Indian Evidence Act. Various categories of punishment can be imposed by criminal courts including capital punishment, imprisonment and fine. The criminal court can summon any witness in exercise of its coercive jurisdiction over the citizenry at large. Due to various factors criminal trials are delayed and often take long years to conclude.

41. On the other hand departmental enquiries have a narrower jurisdiction and impact. Disciplinary enquiries are initiated against delinquent employees for various acts of departmental misconduct. The purpose of departmental enquiries is to ensure that delinquent officials are brought to justice within the disciplinary structures of the department/institution. The purpose of departmental enquiries is to ensure maintenance of overall institutional discipline and integrity of the employees. The expeditious procedures of disciplinary enquiries ensure individual accountability, promote departmental efficiency and safeguard institutional integrity. The emphasis on

procedural fairness inspires the confidence of the employees in the disciplinary structures of the department and fortifies their faith in the system of justice followed by the employer. The transparency in the conduct of the enquiry and proportionality in the imposition of the punishment strengthens the justice delivery system prevalent in the department. Both are critical to ensuring employee morale and institutional efficiency.

42. The standards of evidence in a departmental enquiry by which guilt can be established is preponderance of probability. There is no allergy to hearsay evidence in departmental enquiries while the same is not admissible in criminal trials. The procedures of a disciplinary enquiry are summary in nature, however, the same are consistent with the judicially established norms of fairness and principles of natural justice. The punishments imposed in a departmental enquiry are defined by the statutory rules and may be in the nature of major penalty like dismissal or minor penalty. The said punishments only impact the service condition of the employee.

43. The departmental enquiry exercises jurisdiction only over the employees and is hence limited.

44. In summation various distinctions between criminal trials and departmental enquiries are these. Procedures in a criminal trial are rigorous and elaborate as opposed to more summary procedures adopted in departmental enquiry proceedings. The standards of evidence applicable to

departmental enquiry are lower vis a vis to criminal trial. Departmental proceedings and criminal trials operate in different fields to achieve their distinct purposes as discussed above.

45. The less rigorous procedures in a departmental enquiry, the lower standards of evidence are created only to ensure that the enquiry is concluded in an expeditious time frame and unnecessary hurdles in the conduct of the enquiry are removed in the first instance. Delays in conclusion of the disciplinary proceedings adversely impact institutional integrity and purpose. Further delays in departmental enquiries are detrimental to institutional cohesion and create a disarray in the overall functioning of the department.

46. In case departmental proceedings are held up for prolonged periods and delinquent officials are permitted to discharge their duties in the face of grave charges of misconduct as if it was business as usual, the consequences will be very grave for departmental efficiency, image and discipline.

VII. Analysis of facts

47. The facts of the case borne out from the records are these. The departmental witnesses who are proposed to be introduced in the disciplinary enquiry are different from those nominated as prosecution witnesses in the criminal chargesheet. Though admittedly some of the witnesses

overlap. This itself shows that the scope of departmental proceedings in the instant case is at variance with the prosecution case proposed to be set up in the criminal trial while the departmental enquiry is on foot. The chargesheet has been filed in the criminal case on 27.12.2024. The criminal trial has not commenced as yet. This Court takes note of a large pendency of the criminal trials which are often plagued with long delays. No reasonable time frame can be fixed for the conclusion of the trial. The Court takes judicial notice of the long delays in the criminal justice system. In these circumstances, inordinate delay in the trial will lead to indefinite stay of departmental enquiry proceedings. The disciplinary enquiry cannot be kept pending indefinitely without end of the criminal trial in sight.

48. There is another aspect to the matter. The nature of offences as depicted in the chargesheet filed by the police authorities in pursuance of the criminal investigation before the trial court and the evidences which are proposed to be adduced in the enquiry proceedings show that the case does not involve complicated questions of fact and law. In fact the proceedings are primarily based on facts.

VIII. Findings and Conclusions:

Answer to legal question

49. The question which now requires consideration is whether the imperative of continuing the enquiry outweighs the consequences of staying the departmental enquiry.

50. Departmental enquiry is integral part of the disciplinary structures of the government/institution which in the instant case is the India Government Mint. The India Government Mint exercises very critical functions which have a direct bearing on the economy of the country. Fair enquiry proceedings will permit transparency in the organization and instil confidence in the employees. Expeditious conclusion of the enquiry by adopting fair proceedings will ensure probity in the individual conduct of the employees and accountability in the overall institutional functioning. The efficacious disciplinary proceedings conducted in consonance with established norms of natural justice and fairness are critical to institutional morale, strengthening the institutional disciplinary framework and achieving institutional efficiency and purpose.

51. In this wake interdicting the impugned departmental enquiry at this stage will have grave consequences. The petitioner is charged with the misconduct of theft of government money from the Government of India Mint. Permitting the petitioner to continue who charged with serious misconduct to function as if it was business as usual instead of exposing him to expeditious departmental procedures will not be conducive to institutional interests of the Government of India Mint, and rule of law in the department.

52. Staying on departmental enquiry in the facts of this case will promote a culture of lack of accountability, and create a sense of immunity in the delinquent official who has prima facie committed gross acts of departmental misconduct.

53. Evil consequences flowing from the stay of departmental proceedings will far outweigh gains of stalling the departmental proceedings on ground of pendency of criminal case.

54. Considering the fact that the India Government Mint is engaged in very sensitive transactions, it will not be conducive in the interest of justice to permit the enquiry to be held in abeyance or delayed in any manner. It is both desirable and advisable to hold departmental enquiry and prosecute the criminal trial simultaneously.

55. In light of the preceding discussion the writ petition is dismissed.

56. The enquiry shall be completed within a period of three months from the date of receipt of a certified copy of this order.

57. The petitioner is directed to cooperate in the enquiry proceedings.

(Ajay Bhanot, J.)

Order Date :- 17.10.2025

Vandit