IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SECOND DAY OF SEPTEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 611 OF 2025

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 13/03/2025 in W.P.No.17170 of 2019 on the file of the High Court.

Between:

V. Raghavulu, S/ o. Late V. Narayana, aged about 58 years, Occ. Sub Inspector (recd.), Main Police Control Room, Basheerbagh, Hyderabad, R/o H.No. 8-2-82/1, Sri Sai Enclave, Old Bowenpally, Secunderabad 500011.

.....APPELLANT/WRIT PETITIONER

AND

1. The Government of Telangana, Rep. By its Principal Secretary Dept of Home, Secretariat, Hyderabad.
2. Director General of Police, Telangana State, Lakdikapool, Hyderabad.
3. The Commissioner of Police., Hyderabad City, Basheerbagh, Hyderabad.

.....RESPONDENTS/RESPONDENTS

I.A.NO:2 OF 2025

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dated 13/03/2025 passed in W.P. No. 17170 of 2019, pending disposal of the present writ appeal.

Counsel for Appellant : SRI R.ANURAG

Counsel for Respondents : SRI B.KRISHNA, GP FOR HOME

The Court made the following JUDGMENT : -

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL No.611 of 2025

JUDGMENT:

Heard Sri R.Anurag, learned counsel for the appellant and Sri B.Krishna, learned Government Pleader for Home appearing for the respondents and perused the record.

2. This Writ Appeal is directed against the order dated 13.03.2025 passed by the learned Single Judge in Writ Petition No.17170 of 2019 whereby the writ petition filed by the appellant/writ petitioner challenging the disciplinary action and punishment imposed upon him was dismissed.

3. The said W.P.No.17170 of 2019 was filed seeking a writ of *Mandamus* to declare the action of respondent No.3 in imposing the penalty of Reduction in Time Scale of Pay (R.T.S.P) for two stages for a period of two years with effect on future increment and pension dated 25.05.2018 along with order dated 23.08.2016 as illegal, arbitrary and violative of principles of natural justice and for a further direction to treat the period of suspension from 22.03.2010 to 09.07.2010 as duty for all purposes and to restore the pay including all arrears to which

the petitioner is entitled; and to promote the petitioner to the rank of Inspector on par with his juniors w.e.f. 01.12.2017 and to accordingly recalculate his pensions and all other emoluments.

I. Brief facts of the case

4. On 12.11.2007, the appellant/writ petitioner while working as a Sub-Inspector of Police was issued a charge memo accusing him of tampering with the arrival stamp on the passport of a passenger, one Mr. D. Venkateshwarlu, at the immigration counter in Rajiv Gandhi International Airport, Hyderabad. The allegation was that he affixed a back dated stamp of 12.01.2005 instead of 12.11.2007 for exchange of 300 USD (approximately Rs.10,000/-).

5. After a departmental enquiry, the disciplinary authority, by proceedings dated 23.08.2016 imposed the punishment of Reduction in Time Scale of Pay (R.T.S.P.) by two stages for two years with effect on future increment and pension and treated the period of suspension i.e. 22.03.2010 to 09.07.2010 as 'Not on duty'.

6. The appellant preferred a departmental appeal aggrieved by the order of the disciplinary authority and the appellate authority dismissed the appeal by order dated 25.05.2018.

7. The appellant was simultaneously prosecuted in C.C.No.380 of 2014 on the file of I Additional Junior Civil Judge-cum-XV Additional Metropolitan Magistrate, Cyberabad at Rajendranagar for the offences under Sections 420, 468 and 471 of IPC on the self-same allegations. The criminal Court acquitted the appellant on 02.04.2019 holding that the prosecution had failed to prove the charges beyond reasonable doubt. The appellant filed revision petition before the respondents to consider his case and drop the punishment imposed in the departmental proceedings in the light of acquittal in C.C.No.380 of 2014. However, the same was rejected *vide* proceedings dated 06.08.2019. The appellant aggrieved by the rejection of his revision petition by the respondent authorities filed W.P.No.17170 of 2019 which was dismissed by the learned Single Judge by order dated 13.03.2025 *inter alia* on the ground that the disciplinary proceedings against the appellant were in accordance with the rules and regulations and that the standard of proof that was required in the departmental proceedings was "preponderance

of probabilities" and not "beyond reasonable doubt". The learned Single Judge upheld the findings of the departmental proceedings. Hence, this writ appeal.

8. The learned counsel for the appellant contended that i) the departmental proceedings were conducted in violation of principles of natural justice; ii) no material evidence was produced by the department to substantiate the charges; iii) that the passenger was not examined as a witness; iv) that no CCTV footage or forensic evidence was presented; and v) that the punishment was based on mere suspicion and in the absence of any evidence.

9. *Per contra*, learned counsel for the respondents contended that i) the departmental enquiry was conducted in accordance with the Rules; ii) that the standard of proof in the departmental proceedings "preponderance of probabilities" and not "beyond reasonable doubt"; iii) that the acquittal in the criminal case does not automatically exonerate the appellant in the departmental proceedings and that the punishment awarded was in consonance with the gravity of the charge.

10. In the present case, the departmental enquiry was conducted on the self-same allegations and charges which were

the subject matter of the Criminal Case *vide* C.C.No.380 of 2014 and the witnesses for the department were substantially the same. It is relevant to note that Article-I of the Statement of articles of charge framed against the appellant/petitioner reads as under:

> *Article-1:- Sri V. Raghavulu, SI of Police of Tr. PS Trimulgherry while working at Immigration Airport, Cyberabad as HC on 12-11-2007 fraudulently affixed previous dated arrival stamp in the passport of one passenger Sri D. Venkateshwarlu at the Immigration counter. The said passenger got his visa in October 2004 and went to USA in the month of November, 2004 vide passport No E6136088. The passenger was supposed to stay for 6 months in each visit at USA. But, he over stayed at USA.*
>
> *On 12-11-2007, Sri V. Raghavulu, SI of Police affixed previous date arrival stamp as 12-01-2005 in his passport to avoid any problem in future, though the passenger had actually arrived at Hyderabad on 12-11-2007. This was done for a monetary consideration of US $ 300 from the passenger. This fact came to the notice during the month of July 2009 when the said passenger's entry at George Bush International Airport was refused by US customs Huston Texas and he was deported to India. In this connection, a case was booked in Cr.No.359/09 U/s. 420, 468, 471, IPC at Rajiv Gandhi International Airport, Shamshabad PS. On registration of case, Sri V. Raghavulu obtained anticipatory bail vide Cr.MP.No. 1468 of 2009 dated 1-8-09 and surrendered before Hon'ble VIII MM Court Rajendranagar, Cyberabad. On 17-8-09, he was released on bail. Later, he was placed under suspension vide DO No.1155, dated 20-03-2009 and released from suspension vide DO No. 2610 of even No dated: 09-07-2010. The present stage of the criminal case against him is under Investigation.*

Sri V. Raghavulu, SI, by his above mentioned acts as exhibited lack of integrity, and misused his official position and acted in a manner which is unbecoming of a Government servant and contravened Rule 3 of APCS (Conduct) Rules. 1964.

11. Further, the department in order to prove the alleged offence in the Criminal Case examined P.Ws.1 to 4 who are as follows:

i) P.W.1: B.Ravinder Reddy

ii) P.W.2: Raghavender Reddy

iii) P.W.3: N.Jayaram

iv) P.W.4: J.Bhaskar

12. In the Departmental Proceedings, the same witnesses P.Ws.1 and P.W.3 were examined as P.W.2 and P.W.1 respectively, and P.W.2 in the Criminal Case who is stated to be the panch witness and who has resiled from his previously recorded statement was not examined in the departmental enquiry. The above makes it clear that the charges in the departmental enquiry and the Criminal Case as well as the witnesses/evidence were similar. The criminal Court has categorically recorded a finding that the department has failed to bring home the guilt of the appellant/petitioner.

13. Furthermore, the request of the appellant for examination of the passenger and production of CCTV footage was not acceded by the enquiry officer. The non-examination of material witness and the non-production of crucial witness vitiated the enquiry. The departmental proceedings relied solely on the oral testimony of the officials of the department in the absence of any documentary, electronic or forensic evidence. There was no cash recovered from the appellant nor the stamp stated to be tampered was forensically examined. The appellant was acquitted by the criminal Court on the same set of facts which constituted the charge in the departmental proceedings observing that no cogent evidence was adduced by the department. The department failed to consider the acquittal of the appellant and to act upon the representation of the appellant to drop the punishment awarded in the departmental proceedings.

14. The Hon'ble Supreme Court in the case of ***G.M.Tank v. State of Gujarat and others***[1] held that when a delinquent was acquitted by the criminal Court on the same set of facts, the departmental punishment cannot be sustained.

[1] (2006) 5 SCC 446

15. The Hon'ble Supreme Court in the case of ***Ramlal v. State of Rajasthan***[2] has held that:

> *28. Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.*
>
> *29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" — in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved".*
>
> *30. We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary*

[2] (2024) 1 SCC 175

authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121]

16. A perusal of the findings recorded by the criminal Court and the order passed by the respondent department, in the light of the decisions rendered by the Hon'ble Supreme Court cited above command that punishment inflicted on the appellant pursuant to the departmental proceedings cannot be sustained in the light of the findings of the criminal Court rendered on identical set of facts and circumstance.

17. In the above situation, when the charges in the departmental enquiry and the charges framed against appellant/petitioner in the criminal trial are similar, this Court is of the considered opinion that the imposition of penalty of R.T.S.P for two stages for a period of two years with effect on future increment and pension, dated 23.08.2016 (final order) as confirmed in the appellate order dated 25.05.2018 was totally uncalled for, particularly in view of the fact that the criminal trial has negated the charges levelled against the appellant/petitioner.

18. In the considered opinion of this Court, the learned Single Judge fell in error in upholding the departmental proceedings overlooking and ignoring the findings of the criminal Court on the self-same allegations and the decisions rendered by the Hon'ble Supreme Court, in similar situation.

19. For all the aforesaid reasons, the order of the learned Single Judge cannot be sustained.

20. Accordingly, the Writ Appeal is allowed setting aside the order dated 13.03.2025 in W.P.No.17170 of 2019. The respondents are directed to grant all the consequential benefits including the monetary benefits of the appellant. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

SD/-K. SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Government of Telangana, Dept of Home, Secretariat, Hyderabad.
2. The Director General of Police, Telangana State, Lakdikapool Hyderabad.
3. The Commissioner of Police., Hyderabad City, Basheerbagh, Hyderabad.
4. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to SRI R.ANURAG, Advocate [OPUC]
6. Two CD Copies

SA
BS

HIGH COURT

DATED:02/09/2025



JUDGMENT

WA.No.611 of 2025

ALLOWING THE W.A

WITHOUT COSTS.

11/9/25