PETITIONER:
STATE OF ANDHRA PRADESH

Vs.

RESPONDENT:
S. SREE RAMA RAO

DATE OF JUDGMENT:
10/04/1963

BENCH:
SHAH, J.C.
BENCH:
SHAH, J.C.
SINHA, BHUVNESHWAR P.(CJ)
AYYANGAR, N. RAJAGOPALA

CITATION:
1963 AIR 1723 1964 SCR (3) 25
CITATOR INFO :

R	1965 SC1103	(8)
RF	1969 SC 983	(4)
RF	1970 SC1334	(11)
F	1975 SC2151	(25)
RF	1980 SC1896	(180)
R	1983 SC1102	(6)
RF	1986 SC 995	(16)

ACT:
Public Servant--Disciplinary action--Writ Petition-Interference by High Court--Principles--Constitution of India, Art. 226.

HEADNOTE:
The respondent was a Sub-Inspector of Police in charge 01 a police station. One D, suspected of having committed an offence, was apprehended by the village Munsif and was sent to the police station. He was handed over to the respondent. The respondent declined to give a written acknowledgment of having received 1)and made no entries in the station diary regarding him. D was confined in the police station for several days without being produced before a Magistrate. A departmental inquiry was started against him for reprehensible conduct in wrongfully confining D. The defence set up by him was that D had never been handed over to him because he had escaped while on his way to the police station. The Deputy Superintendent of Police, who held the enquiry, found him guilty of the charge. The Deputy Inspector-General of Police gave him a show cause notice and after considering his explanation ordered that he be dismissed from service. On appeal, the Inspector-General of Police modified the order of dismissal and converted it into one for removal from service. The respondent filed a writ petition before the High Court challenging the validity of the order and the High Court quashed the orders.
Held that the High Court had no jurisdiction to interfere with the orders. The High Court was wrong in its view that in a departmental enquiry the rule followed in a criminal trial that an offence is not established unless proved by evidence beyond reasonable doubt to the

satisfaction of the court must be applied and that if such a rule was not applied the high court could set aside the order of the departmental authority in exercise of its power .under Art. 226 of the constitution. The High Court does not sit as a court of appeal over the decision of the authority holding a departmental enquiry:
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it has only to see whether the enquiry has been held by a competent authority and according to the procedure prescribed and whether the rules of natural justice have been observed. Where there is some evidence which the authority has accepted and which evidence may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Art. 226 to review the evidence and to arrive at an independent finding on the evidence. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be convassed before the High Court. In the present case, the proceedings before the departmental authorities were regular, no rules of natural justice were voilated, the conclusions were borne out by the evidence and the respondent had ample opportunity of examining his witnesses. Therefore, the conclusions of the punishing authority were not open tO be questioned before the High Court.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 626 of 1961.

Appeal by special leave from the judgment and order dated November 18, 1959, of the Andhra Pradesh High Court in Writ Petition No. 922 of 1956.

T.V.R. Tatachari and P.D. Menon, for the appellants.

K. Bhimasankaram and T. Satyanarayana, for the respondent.

1963. April 10. The Judgment of the Court was delivered by

SHAH J.--On March 10, 1955, the Deputy Inspector General of Police, State of Andhra, passed an order dismissing the respondent (who was a sub-inspector of police appointed on probation) from service. On appeal to the Inspector General of Police, the order was altered into one of removal from service. The respondent then. moved the High Court of Andhra pradesh by a petition under Art. 226 of the Constitution for a writ of certiorari or other appropriate
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writ or direction quashing the proceedings of the Inspector General of Police including his order dated September 24, 1955, and the order of the Deputy Inspector General of Police dated March 10, 1955, and for such other orders as the Court may deem fit. The High Court quashed the two impugned orders. Against the order passed by the High Court, this appeal is preferred with special leave.

It is necessary to set out in some detail the facts which gave rise to the departmental proceedings against the respondent resulting in his removal from service. The respondent was at the material time in charge of the police station Kodur, Visakhapatnam District. On February 18, 1954, an offence of house-breaking and theft was reported at the police station and was registered on February 19,1954. It was recited in the report of the Village Munsif of Vechalam that one Durgalu who was then absconding was suspected to be-the offender. This Durgalu was apprehended by the Village Munsif of Kalogotla on March 5, 1954, and was handed over to the Village Munsif of Vechalam, who in his

turn sent Durgalu to Kodur police station with village servants V. Polayya, Vechalapu Simhachalam, Kodamanchali Simhachalam and Koduru Sumudram. It is the case of the State that Durgalu was handed over to the respondent on the night of March 5, 1954, but no written acknowledgment in token of having received Durgalu from the village servants was given by the respondent, nor was any entry posted in the station diary, and Durgalu was thereafter confined in the police station from the night of March 5, 1954, without any order from a Magistrate remanding him to police custody. On March 7, 1954, the' respondent entrusted charge of the police station to a head constable and left for Kakinada on casual leave for five days. He returned to Kodur on March 12, 1954. After the departure of the respondent,
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some constables arrested one Reddy Simhachalam and brought him to the police station in the evening of March 7, 1954. It is the case of the State that as a result of torture by police constables Nos. 1199, 363 and 662, Reddy Simhachalam became unconscious. The dead body of Reddy Simhachalam was found floating in a well near the police station on the morning of March 9, 1954, and an enquiry into the circumstances in which the death took place was commenced by the Revenue Divisional Officer, Narsipatnam. In the enquiry, Durgalu made a statement that he had witnessed the torture of Reddy Simhachalam, in the police station, by the three constables. Police constables Nos. 1199, 363' and 662 were then charged before the Sub-Magistrate, Chodavaram, for offences under ss. 304(2) and 201 read with s. 114 I.P. Code, for causing the death of Reddy Simhachalam by torturing him and for causing disappearence of the evidence of his death. Before the Sub-Magistrate, Durgalu retracted his earlier statement and stated that the statement that he was an eye-witness to the torture of Reddy Simhachalam was untrue and that he was induced to make that statement by the police. He deposed that he had escaped from the custody of the village servants before he reached the police-station Kodur on March 5, 1954, and that he was re-arrested on March 8, 1954. The Sub-Magistrate discharged the police constables holding that once Durgalu the only eye-witness turned hostile, there was no direct evidence on which even a prima facie case could be made out against them. The record of the case before the Sub-Magistrate was called by the Sessions Judge, Visakhapatnam, suo motu. The Sessions Judge held it proved on the evidence that Durgalu was arrested on March 5, 1954 and was taken to the police-station Kodur and was wrongfully confined since that date in the police station, and the story of Durgalu before the Sub-Magistrate that after he was arrested on March 5, 1954 and was taken to the
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Kodur village on that very day he had escaped from custody and that he remained in his village Vechalam could not be believed.

A departmental enquiry was commenced in May 1954: against the respondent. The charge in the disciplinary proceedings against the respondent after it was amended ran as follows :--

> "Reprehensible conduct in wrongfully confining a K.D, Chandana Durgalu accused in Cr. No.17/54: of Kodur Police Station from the night of 5-3-54: to 7-3-1954: in the Police Station when he went on five days casual leave.' '

To the charge was appended a "statement of facts" reciting inter aria, that Durgalu was apprehended by the Village Munsif, Kaligotla and was handed over to the Village Munsif, Vechalam, that Durgalu was sent by the latter with the written report with the assistance of village servants, that on the same night the latter handed over Durgalu to the respondent in the police station Kodur at about 12 mid-night, with the report of the Village Munsif and demanded acknowledgment but the acknowledgment was refused by the respondent, and that the respondent did not mention these facts in any of the station records and wrongfully confined Durgalu in the police station till March 7, 1954:, when he proceeded on casual leave for five days. This, the "statement of facts" added, constituted grave and reprehensible conduct and hence the charge. The respondent submitted an explanation in which he submitted that Durgalu was not handed over to him on March S, 1954:, as alleged nor at any time before he proceeded on March 7, 1904:, on casual leave. His plea was that when he proceeded on leave he entrusted charge of the police station to the head constable leaving instructions to trace Durgalu and to take action.

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The Deputy Superintendent of Police held the departmental enquiry and submitted his report on October 27, 1954, setting out the evidence of the witnesses examined on behalf of the State and the respondent, and summing up the conclusion by reciting that the evidence in the case for the State made out a strong case against the respondent, that it was established that Durgalu was arrested on March 5, 1954, and was sent by the Village Munsif to Vechalam who in his turn sent him with the village servants to the police station Kodur, and Durgalu was handed over to the respondent on the night o.f March 5, 1954, that the story of Durgalu that after he was arrested on March 5, 1954, he escaped from the custody of the village servants and was again arrested on March 8, 1954, was false. The report then concluded "All these facts go to show that he was arrested on the 5th without a shadow of doubt, but if the judgment of the learned Court which is based on the retracted statement of Durgalu is considered the ’sacred truth’ the delinquent may have benefit of doubt." This report was considered by the authority competent to impose punishment and a provisional conclusion that the respondent merited punishment of dismissal for the charges held established by the report was recorded. A copy of the report of the Enquiry Officer was sent to the respondent and he was called upon to submit his representation against the action proposed to be taken in regard to him. The respondent submitted his representation which was considered by the Deputy Inspector General of Police, Northern Range, Waltair. That Officer referred to the evidence of witnesses for the State about the arrest of Durgalu on March 5, 1954, and the handing over of Durgalu to the respondent on the same day. He observed that the evidence of Durgalu ’that after he was arrested on March 5: 1954, he had made good his escape and was again arrested on March 8, 1954, could not be accepted. Holding that the charge

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against the respondent was serious and had on the evidence been adequately proved, in his view the only punishment which the respondent deserved was of dismissal from the police force.-

In appeal the Inspector General of Police accepted the evidence of the witnesses who had deposed that they had

handed over Durgalu to the respondent on March 5, 1954. In his view the respondent had "betrayed gross dishonesty and lack of character in falsifying the records by omitting to write what he had done and what happened in the police station, thereby .proving himself thoroughly dishonest and untrustworthy," and "showing himself unfit to hold the responsible post of a SubInspector of police," and that "his records as a probationary Sub-Inspector of police are generally unsatisfactory. and he has earned a reputation for inefficiency and lack of interest in work for weakness in dealing with his subordinates, which are all attributes that militate against his becoming useful SubInspector of Police." But taking into consideration his young age and inexperience, the Inspector General of Police reduced the order of dismissal into one for removal from service.

In the departmental proceeding a simple question of fact fell to be determined--viz. whether Durgalu was arrested on March 5, 1954, and was delivered over by the village servants to the respondent at police station Kodur on the night of March 5, 1954. There is no dispute that Durgalu was arrested on March 5, 1954, and was sent by the Village Munsif, Vechalam with his report to the police station Kodur. The only question in dispute was whether Durgalu was handed over to the respondent on March 5, 1954, as stated by the witnesses for the State. The case of the State was accepted by the Deputy Inspect.or .General of Police who passed the order of dismissal and the Inspector
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General of Police in appeal. But the High Court declined to accept this view of the evidence. In so doing, with respect it must be observed, the High Court assumed to itself jurisdiction which it did not possess. The High Court was of the view that the conclusion of the departmental authorities was vitiated, because the Enquiry Officer dealt with the evidences of witnesses for the State, and the witnesses for the respondent separately, and the Deputy Inspector General of Police and the Inspector General of Police did not in recording their orders refer to all the evidence led before the Enquiry Officer and they "failed to appreciate the full significance of the rule concerning the onus of proving. The rule meant that everything essential to the establishment of a charge lies on the person, who seeks to establish the charge. It further means that the two sets of evidence in the case must not be examined separately in order to ascertain first whether those for establishing the charge have proved it and then to examine the defence in order to see how far the conclusions are unjustified. The better approach, which has been described as the golden thread in the web of criminal law is to examine the law, the whole evidence in order to ascertain how far the liability of the person proceeded against has been established beyond reasonable doubt". The High Court then observed that ordinarily the conclusions on questions of fact by a body or tribunal in a proceeding under Art. 226 of the Constitution are accepted by the High Court but that general rule does not apply "whenever an important principle of jurisprudence is discarded in reaching such findings", and since the fundamental rule that a person should be punished only after the entire evidence in the case had been considered and he is found liable beyond reasonable doubt, had not been followed, the conclusions of the departmental authorities were vitiated. The High Court again observed that the orders passed by the departmental authorities were vitiated because of two
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other matters: (i) that the Enquiry Officer declined to summon and examine two witnesses for the defence even though a request in that behalf was made; and (ii) that there was no charge against the respondent of "falsifying the record by omitting to write what he had done or what happened in the police station", and he had not been given an opportunity of meeting such a charge and therefore the respondent had no fair hearing consistent with the principles of natural justice.

There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court, must be applied, and if that rule be not applied, the High Court in a petition under Art, 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Art. 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: iris concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent Officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Art. 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the

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rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or ;where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Art. 226 of the Constitution.

The Enquiry Officer had accepted the evidence of witnesses for the Sate that Durgalu was handed over to the respondent on March 5, 1954, and the observation that the respondent may have the benefit of doubt if the judgment of the Magistrate is considered "sacred truth" appears to have been made in a somewhat sarcastic vein, and does not cast any doubt upon the conclusion recorded by him. The Enquiry Officer appears to have stated that the judgment of the Magistrate holding a criminal trial against a public servant could not always be regarded as binding in a departmental enquiry against that public servant. in so stating, the Enquiry Officer did not commit any error. The first ground on which the High Court interfered with the

order of the punishing authorities is therefore wholly unsustainable.

The two other grounds on which the High Court also based its conclusion, namely, refusal to summon and examine witnesses for the respondent and holding the respondent guilty of a charge of which he had no

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notice are equally without substance. It appears that the respondent desired to examine police constables Nos. 178, 506 and 569 to prove that Durgalu was not in the lock-up till March 8, 1954. Police constable No. 506 was examined as a witness for the respondent, and the Enquiry Officer has not accepted his evidence. The other two witnesses were neither summoned nor examined, but it appears from the record that on September 20, 1954, the respondent promised to produce the witnesses whom he had cited in his defence. At the hearing dated September 26, 1954, three witnesses were examined by the respondent and the respondent was given another opportunity to secure the presence of the remaining defence witnesses. On September 27, 1954 police constable 506 was examined and it appears that the respondent expressed his desire not to examine any more witnesses. In the proceeding of the Enquiry Officer there is a note that "your defence witnesses have been examined and such documents you required have been produced and exhibited". The respondent subscribed his signature in acknowledgment of the correctness of that recital. He did not raise any objection in the representation made by him before the Deputy Inspector General of Police when notice was issued on him to show cause why he should not be punished. In the memo of appeal to the Inspector General of Police, it was submitted by the respondent that the police witnesses were to be summoned by the Enquiry Officer, and that he did not summon them. It was also submitted that the statement signed by the respondent was only in respect of private witnesses, and not police witnesses. But the endorsement made by the Enquiry Officer is not susceptible of any such interpretation, which refers to all witnesses for the respondent. The record does not show that an application for summoning the police witnesses was made and the Enquiry Officer in breach of the rules declined to summon them. We are in the light of this evidence

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of the view that the respondent did not, after the examination of police constable No. 506, desire to examine the two police constables Nos. 178 and 569, whom he. originally wanted to examine.

It was next urged that the findings recorded were not in respect of the charge which the respondent was called upon to answer. The charge against the respondent was that he had wrongfully confined Durgalu on March 5, 1954, to March 7, 1954, in the police station. In the statement of facts which accompanied the charge-sheet it was stated in express terms that the respondent had not recorded in any of the diaries of the police station that Durgalu was handed over to him on March 5, 1954. The charge and the "statement of facts" form part of a single document on the basis of which proceedings were started against the respondent and it would be hypercritical to proceed' on the view that though the respondent was expressly told in the statement of facts which formed part of the charge-sheet, that he had failed to record that Durgalu was handed over to him, that ground of reprehensible conduct' was not included in the charge, and on that account the enquiry was vitiated. No objection appears to have been raised before the Deputy

Inspector General or even the Inspector General of police, that there was infirmity in the charge on that account, and that infirmity had prejudiced the respondent in the enquiry. The respondent had full notice of the charge against him, and he examined witnesses in support of his defence and made several argumentative representations before the Deputy Inspector General, the Inspector General of Police and the Government of Andhra Pradesh.

In our Judgment the proceedings before the departmental authorities were regular and were not vitiated on account of any breach of the rules of natural justice. The conclusions of the departmental

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officers were fully borne out by the evidence before them and the High Court had no jurisdiction to set aside the order either on the ground that the "approach to the evidence was not consistent with the approach in a criminal case," nor on the ground that the High Court would have on that evidence come to a different conclusion. The respondent had also ample opportunity of examining his witnesses after he was informed of the charge against him. The conclusion recorded by the punishing authority was therefore not open to be canvassed, nor was the liability of the respondent to be punished by removal from service open to question before the High Court.

The appeal is allowed and the order passed by the High Court is set aside. The petition filed by the respondent is dismissed. There will be no order as to costs. The order as to costs passed by the High Court will stand.

Appeal allowed.

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