AFR

ORISSA HIGH COURT : CUTTACK

W.A. No.555 of 2026

CNR No. ODHC010161172026

In the matter of an Appeal under Article 4 of
the Orissa High Court Order, 1948
read with
Clause 10 of the Letters Patent constituting
the High Court of Judicature at Patna
and
Rule 6 of Chapter-III and Rule 2 of Chapter-VIII
of the Rules of the High Court of Orissa, 1948

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1. Food Corporation of India
Represented through
General Manager, New Delhi.

2. The General Manager (Region)
Food Corporation of India
Bhubaneswar
District: Khordha.

3. Divisional Manager
Divisional Food Corporation of India
Divisional Office, Jeypore
District: Koraput.

4. Manager (D)
Food Corporation of India, FSD
At/P.O./District: Rayagada. ... Appellants
(Opposite parties in
the Writ Petition).

-*VERSUS*-

Kavi
Aged about 33 years
Son of Jogindar Singh
Hasanapur, P.O.: Lisarh
P.S./District: Shamli
Uttar Pradesh
At present serving as
Assistant Grade-III (Depot)
Office of Manager (D)
Food Corporation of India, FSD
Rayagada. ... Respondent
(Petitioner in
the Writ Petition).

Counsel appeared for the parties:

For the Appellants : Mr. Milan Kanungo
Senior Advocate
M/s. Sidhartha Das,
V.R. Behera, S.S. Ojha,
Sukanya Jena, Advocates

For the Respondents : M/s. Krishna Chandra Sahu,
Sudarshan Pradhan,
Debendra Kumar Mahalik,
Asit Kumar Mishra, Advocate

P R E S E N T:

HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON

AND

HONOURABLE
MR. JUSTICE MURAHARI SRI RAMAN

Date of Hearing : 08.09.2026 :: Date of Judgment : 10.09.2026

JUDGMENT

MURAHARI SRI RAMAN, J.—

The intra-Court appeal bearing W.A. No.555 of 2026 preferred under Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna read with Article 4 of the Orissa High Court Order, 1948 and Rule 6 of Chapter-III and Rule 2 of Chapter-VIII of the Rules of the High Court of Orissa, 1948 are directed against the Order dated 04.02.2026 of the learned Single Judge passed in W.P.(C) No.3337 of 2026.

1.1. A seminal question arises out of the order in the writ petition filed at the behest of the respondent-employee that whether the disciplinary proceeding can be allowed to continue while the criminal proceeding against him is pending. [See paragraph 2 of the Order dated 04.02.2026 of the learned Single Judge].

Facts:

2. Undisputed facts on records relating to the writ appeal as also the writ petition, as unfurled by the parties, reveal that:

i. The petitioner joined as Watchman on 28.02.2019 being posted in the Regional Office, Bhubaneswar upon being selected in a recruitment process and subsequently he was promoted to the rank of Assistant Grade-III on 27.12.2022 and worked at Food Corporation of India, FSD, Rayagada.

ii. On the basis of information under Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023, supplied by the General Manager (Region), FCI, R.O., Bhubaneswar, a case was registered bearing Case No. RC0152024A0009 (RC09(A)/ 2024-BBS), dated 03.09.2024 at Directorate of Special Police Establishment, Central Bureau of Investigation, Anti-Corruption Branch, Bhubaneswar, in connection with commission of offences under Sections 120B, 419, 420, 467, 468 and 471 of the Indian Penal Code, 1860, read with Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

iii. The allegation in brief as is manifest from the FIR so lodged is that during inquiry by Authorities of the Food Corporation of India relating to examination conducted for recruitment of Watchman in the Odisha Region, the test documents of 61 candidates were forwarded to the Central Forensic Science Laboratory, Kolkata

("CFSL", for short) for verification of signatures. The CFSL confirmed that the signatures of five candidates, namely: Shri Abhishek Kumar Mishra, Shri Karan Raj, Shri Sikandar Kumar, Shri Dipankar Roy and Shri Ranbir Kumar Paswan were alleged to be forged. The complaint, *prima facie*, discloses commission of cognizable offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 of the Indian Penal Code, 1860, and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

iv. On the basis of allegation made in the FIR, though the name of the respondent-writ petitioner does not find place therein, the appellants initiated departmental proceeding *vide* Memorandum bearing No.E//394682/RO/-OR-13.0011.0/40/ 2025-VIG-RO-OR, dated 04.08.2025.

2.1. With aforesaid backdrop of facts it is the case of the respondent-writ petitioner that as the FIR was lodged against Swapneel Kumar, Karan Raj, Sikandar Kumar, Dipankar Roy, Ranbir Kumar Paswan and "unknown officials of FCI", the Departmental Proceeding initiated is uncalled for and the allegations in the FIR and the charges framed against the respondent are identical, if the departmental proceeding is allowed to continue, it

would seriously prejudice the defence plea to be taken in the criminal case.

2.2. The significant plea before the writ Court is manifest from Paragraphs 6-8 of the writ petition, which are reproduced herein below for better comprehension:

> *"6. That, in pursuant to the memorandum of charges the petitioner filed his reply stating inter alia on the basis of allegation made in the FIR, Departmental Proceeding has been initiated against him, accordingly,* ***he prayed not to proceed with the Departmental Proceeding and criminal case are same and akin though his name does not find lace in the FIR.*** *It is humbly submitted that without considering his show cause reply the Opposite Party No.2 (General Manager (Region), Food Corporation of India) is taking steps to conclude the Departmental Proceeding by imposing punishment on the petitioner. If the Departmental Proceeding will be concluded prior to disposal of the criminal case then the petitioner will suffer irreparable loss and injury which cannot be compensated by any means.*
>
> *7. That as would be evident from the criminal case and charges in Departmental Proceeding, both are same and akin. Hence Departmental Proceeding has been initiated basing on the allegation made in the FIR which has led to criminal case. The foundation for initiation of Departmental Proceeding is the allegations made in the criminal case.*
>
> *8. That since the witnesses and documents in the Departmental Proceeding and criminal proceeding to*

be relied upon are same and akin the petitioner prayed before the authority to stay the Departmental Proceeding till conclusion of criminal proceeding on the ground that if he discloses his defence in the departmental proceeding the prosecution will take advantage of it and utilize the same in the criminal proceeding which will be detrimental to his defence in the criminal proceeding. It is the settled position of law when on the self-same charges the departmental proceeding and criminal proceeding are initiated the departmental proceeding should wait till conclusion of the criminal proceeding in the interest of justice, otherwise the delinquent officer will be prejudiced. When the settled position of law is like thus and on the basis of the said position of law the petitioner approached the authorities to stay the proceeding till conclusion of the criminal proceeding but no one has paid any to heed her (his) grievance on the other hand the enquiry officer is very much interested to conclude the enquiry at an earliest date."

2.3. Aforesaid plea of the respondent gave rise to making the following prayer(s) in the writ petition:

"It is therefore humbly prayed that this Hon'ble Court may graciously be pleased to admit the case, call for the records and after hearing both the parties pass the following reliefs:

i) To quash the memorandum dated 04.08.2025 under Annexure-2.

ii) ***To direct the Opposite Party No.2 not to proceed with the Memorandum dated***

04.08.2025 under Annexure-2 till conclusion of the DSPE, CBI, ACB, Bhubaneswar P.S.case No. RC09(A)/2024-BBS (RC01520224A0009) dated 03.09.2024 pending in the court of learned Judge, CBI, Bhubaneswar.

iii) And pass such other order/orders as may be deemed fit and proper for the interest of justice.

And for this act of kindness, the petitioner as in duty bound shall ever pray."

2.4. Taking into consideration the submission of the writ petitioner/respondent herein the learned Single Judge passed the following Order on 04.02.2026 in writ petition being W.P.(C) No.3337 of 2026:

"4. It is accordingly contended that pending disposal of the CBI proceeding, the disciplinary proceeding be stayed.

5. Learned Counsel for the Corporation on the other hand contended that there is no bar for continuance of both the proceedings, even though the charges are same.

6. Having heard learned counsel appearing for the Parties and considering the submissions made and the fact that ***both the proceedings have been initiated on selfsame charges****, this Court while disposing the Writ Petition, observes that the disciplinary proceeding initiated vide Memorandum dated 04.08.2025 under Annexure-2 may continue, but no final order will be passed, till disposal of the CBI proceeding. Learned CBI, Bhubaneswar Judge is directed to expedite the trial of DSPE, CBI, ACB,*

Bhubaneswar, P.S. Case No.RC09(A)/ 2024-BBS (RC0152024A0009) dated 03.09.2024.

7. With the aforesaid observations and directions, the Writ Petition stands disposed of."

2.5. Propriety, legality and sanctity of said order gave rise to this intra-Court appeal being filed by the Food Corporation of India on the grounds *inter alia* that:

i. No opportunity calling upon the Food Corporation of India ("FCI", abbreviated) to file response to the averments of the writ petition.

ii. The legal principles set forth have not been construed by the learned Single Judge in proper perspective to render the finding that charges in departmental proceeding and the criminal case are the same/identical.

iii. As the writ petition got disposed of on the first date of listing and without issue of notice to the opposite parties, there was no occasion for the appellants to bring forth relevant material facts. Had the opportunity to file counter affidavit been given pertinent facts and distinctive feature obtained in the case could have been placed before the learned Single Judge. Flagrant violation of principles of natural justice landed the appellants to pursue remedy available under the Orissa High Court

Order, 1948 read with the Letters Patent constituting the High Court of Judicature at Patna and the High Court of Orissa, 1948.

iv. Since the departmental proceedings has been initiated against the respondent on the basis of the materials available on record inasmuch as he has violated the terms of recruitment by not maintaining a responsible and decent standard of conduct during the course of selection and has acted in a manner unbecoming of an employee of the FCI which clearly attracts the statutory provisions contained in Regulation 32 and Sub-Regulation 1, 5, 17 and 30 of Regulation 32A of the Food Corporation of India (Staff) Regulations, 1971, to take action against him, no illegality and/or infirmity can be imputed against in the impugned Disciplinary Proceeding and on this ground the writ petition ought have been dismissed being devoid of any merit. Negative report of CFSL, Kolkata dated 29.02.2024, received on 20.07.2024, indicated that the appellant has not appeared in the written examination held on 12.11.2017 and adopted the illegal and foul and dubious device in the recruitment process and succeeded in his attempt to capture the job/post of Watchman in FCI, Odisha Region.

2.6. The appellant, therefore, has prayed for grant of following relief(s):

> *"In the light of the fact and circumstances narrated above it is prayed that this Hon'ble court may graciously be pleased to admit the writ appeal, call for records and after hearing the parties be pleased to allow the appeal by setting aside the impugned judgement dated 04.02.2026 passed by this Hon'ble Court in its Single Bench in W.P.(C) No 3337 of 2026 as under Annexure-1;*
>
> *And be further pleased to allow the present Appellant to continue with the Departmental Proceeding initiative vide Memorandum dated 04.08.2025 vide Annexure-2 following the due procedure of law and conclude the same at the earliest;*
>
> *And may further be pleased to pass any other Order(s), Writ(s), Direction(s) as deemed fit and proper in the facts of the case;*
>
> *And for this act of kindness, the Appellant shall as in duty bound ever pray."*

Hearing:

3. Heard Sri Milan Kanungo, learned Senior Advocate assisted by Sri Sidhartha Das, learned Advocate for the appellant and Sri Krushna Chandra Sahu, learned Advocate for the respondent.

3.1. Having heard counsel for the respective parties, after conclusion of the hearing, the matter is kept reserved for preparation and delivery of Judgment.

Contentions and arguments advanced by the counsel:

4. Sri Milan Kanungo, learned Senior Advocate would submit that no adequate opportunity much less opportunity to place material facts in reply to the averments of the respondent being granted, the order of the learned Single Judge suffers serious infirmity in law as adverse order passed against the FCI would affect the course of enquiry in the departmental proceeding.

4.1. Sri Bigyan Kumar Sharma, learned Senior Advocate submitted that the nature of allegation as per Memorandum to initiate departmental proceeding against the respondent would suggest that the delinquent shall be in a position to explain that the examination for recruitment has been written by him and there is every scope that he will be afforded opportunity to rebut that the signatures alleged to be at variation in connection with the recruitment examination has, in fact, been without any foundation. Reference would be made to *State Bank of India Vrs. R.B. Sharma, (2004) Supp. 3 SCR 417* wherein the Hon'ble Supreme Court of India has been pleased to cull out the following settled position:

"It is fairly well-settled position in law that on· lhsic 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.

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 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 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. A three-judge Bench of this Court in Depot Manager, A.P. State Road Transport Corporation Vrs. Mohd. Yousuf Miya and Ors., (1997) 2 SCC 699 analysed the legal position in great detail on the above lines. The aforesaid position was also noted in State of Rajasthan Vrs. B.K. Meena, (1996) 6 SCC 417. There can be no straight jacket 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."*

4.2. It is explained by the learned Senior Advocate that if the order of the learned Single Judge is allowed to stand, the FCI would not be in a position to establish in course of departmental proceeding with respect to serious allegation against the impersonation during examination for recruitment, which came to the fore in the test report submitted by the Central Forensic Science Laboratory. To test the veracity of result of such test report, the respondent would have ample opportunity before the Authority concerned. Therefore, there can be no apprehension of doubt that the respondent shall be prevented to have opportunity to place his case to rebut

contents of the report submitted by said Central Forensic Science Laboratory.

4.3. Referring to Letter No.1265/RC-09(A)/2024/CBI/ACB/ BBS, dated 25.02.2026 issued by DIG of Police/HoB, CBI, ACB, Bhubaneswar in response to query of Manager, Vigilance (Region), FCI, Regional Office, Bhubaneswar, emphasis is laid by Sri Milan Kanungo, learned Senior Advocate that the case being No.RC-09(A)/2024 BBS, dated 08.09.2024 "is under active investigation". Expanding his argument further he submitted that as admitted by the respondent in the writ petition that his name does not appear in the FIR, thereby no chargesheet in the criminal case is contemplated as of now. Furthermore, the Report of the Central Forensic Science Laboratory gave rise to initiation of departmental proceeding which is yet to record evidence in opposition and the Authority concerned has to record findings. At this stage, when no material produced by the respondent to say that criminal case is pending against him, the learned Single Judge fell in grave error of fact and law by directing to continue with the departmental proceeding initiated against the respondent but not to pass final order.

4.4. He, thus, submitted that the instant case requires to be examined in the light of the settled legal proposition set forth by the Court(s) and keeping in view that judicial

review is concerned primarily with the decision making process and not the decision itself. More so, it is a settled legal proposition that in a case of misconduct or misdemeanour of grave nature like corruption, theft, no punishment other than the dismissal can be appropriate in the circumstances. [*Vide*: *Pandiyan Roadways Corpn. Ltd. Vrs. N. Balakrishnan (2007) 9 SCC 755 = (2007) 6 SCR 873; U.P. State Road Transport Corporation Vrs. Suresh Chand Sharma, (2010) 6 SCC 555; Divisional Controller, KSRTC Vrs. M.G. Vittal Rao, (2011) 14 (Addl.) SCR 1089*].

5. Sri Krushna Chandra Sahu, learned Advocate canvassed before this Court that no flaw can be attributed to the Order dated 04.02.2026 passed in W.P.(C) No.3337 of 2026 inasmuch as serious prejudice would ensue to the petitioner if the outcome of the departmental proceeding is published. There is every possibility that the evidence collected during the course of departmental proceeding would be utilised in the course of the criminal case. Such finding and evidence therein shall bias the course of criminal trial.

5.1. He placed heavy reliance on *Capt. M. Paul Anthony Vrs. Bharat Gold Mines Ltd., (1999) 3 SCC 679,* wherein it has been held as follows:



"12. This question, as observed earlier, is of a perennial nature and has arisen more often than not in spite of the judicial pronouncements, specially by this Court, having settled the question and provided the answer. Still, the problem is raised either by the employer or by the employee in one or the other form. ***In the instant case, the order of dismissal had already been passed before the decision of the criminal case which ultimately resulted in the acquittal of the appellant. Whether the acquittal coupled with other circumstances, specially ex parte proceedings, of the case, will have the effect of vitiating the departmental proceedings or the order of dismissal passed against the appellant, is the question which is to be considered in this appeal****.*

13. As we shall presently see, there is a consensus of judicial opinion amongst the High Courts whose decisions we do not intend to refer to in this case, and the various pronouncements of this Court, which shall be copiously referred to, on the basic principle that proceedings in a criminal case and the departmental proceedings can proceed simultaneously with a little exception. ***As we understand, the basis for this proposition is that proceedings in a criminal case and the departmental proceedings operate in distinct and different jurisdictional areas. Whereas in the departmental proceedings, where a charge relating to misconduct is being investigated, the factors operating in the mind of the disciplinary authority may be many such as 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 than that required in a criminal case. *While in the departmental proceedings the standard of proof is one of preponderance of the probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubt. The little exception may be where the departmental proceedings and the criminal case are based on the same set of facts and the evidence in both the proceedings is common without there being a variance.*

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19. *The entire case-law was reviewed once again by this Court in State of Rajasthan Vrs. B.K. Meena, (1996) 6 SCC 417 wherein it was laid down as under:*

> *'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., AIR 1960 SC 806 = (1960) 3 SCR 227 and Tata Oil Mills, AIR 1965 SC 155 = (1964) 7 SCR 555 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 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."

20. *This decision[1] 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.*

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

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1 *State of Rajasthan Vrs. B.K. Meena, (1996) 6 SCC 417.*

(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.

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34. *There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely, "the raid conducted at the appellant's residence and recovery of incriminating articles therefrom".* ***The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police officers and panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. 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****."*

5.2. Sri Krushna Chandra Sahu, learned Advocate placed reliance on *G.M. Tank Vrs. State of Gujarat, (2006) 5 SCC 446,* wherein the Hon'ble Supreme Court of India held that:

"27. In Ajit Kumar Nag Vrs. G.M. (PJ), Indian Oil Corpn. Ltd., (2005) 7 SCC 764 this Court in para 11 held as under:

'11. ***As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible.*** *In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict*

appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. ***Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law****, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused* ***'beyond reasonable doubt'****, he cannot be convicted by a court of law.* ***In a departmental enquiry,*** *on the other hand, penalty can be imposed on* ***the delinquent officer on a finding recorded on the basis of 'preponderance of probability'****. Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside.'*

28. *This Court in Depot Manager, APSRTC Vrs. Mohd. Yousuf Miya, (1997) 2 SCC 699 in para 8 held as under:*

*'**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 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. *... 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, ... 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****.'*

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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 will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.

32. In the instant case, the appellant joined the respondent in the year 1953. He was suspended from service on 08.02.1979 and got subsistence allowance of Rs 700 p.m. i.e. 50% of the salary. On 15.10.1982 dismissal order was passed. ***The appellant had put in 26 years of service with the respondent i.e. from 1953-1979. The appellant would now superannuate in February 1986. On the basis of the same charges and the evidence, the department passed an order of dismissal on 21.10.1982 whereas the criminal court acquitted him on 30.01.2002.*** *However, as the criminal court acquitted the appellant on 30.01.2002 and until such acquittal, there was no reason or ground to hold the dismissal to be erroneous, any relief monetarily can be only w.e.f. 30.01.2002. But by then, the appellant had retired, therefore, we deem it proper to set aside the order of dismissal without back wages. The appellant would be entitled to pension."*

5.3. To buttress argument that the acquittal in the criminal proceeding being outcome of full consideration of prosecution evidence and prosecution having miserably failed to bring home the charge framed, the orders of the disciplinary authority can be interfered with by quashing departmental proceeding, Sri Krushna Chandra Sahu, learned counsel referred to *Ram Lal Vrs. State of*

Rajasthan, (2023) 15 SCR 808. It is observed in the said reported judgment as follows:

"Effect of Acquittal in the Criminal Proceeding— Question No. 2:

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25. *Expressions like "benefit of doubt" and "honorably acquitted", used in judgments are not to be understood as magic incantations.* ***A court of law will not be carried away by the mere use of such terminology.*** *In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.*

26. *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" [See Vijayee Singh and Others Vrs. State of U.P., (1990) 3 SCC 190].

27. *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 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 (supra).*

28. *Apart from the above, one other aspect is to be noted. The Enquiry Officer's report makes a reference to the appellant passing 10th standard, and to a 10th standard marksheet exhibited as Exh. P-4 referring to the date of birth as 24.07.1974. Jagdish Chandra-PW1 (in the departmental enquiry) clearly deposed that since the appellant was regularly absent from Class 10, his name was struck off and he did not even pass 10th standard. The appellant has also come out with this version before the disciplinary authority, stating that the 10th class certificate of Ram Lal produced before the Enquiry Officer, is of some other Ram Lal.*

29. *This issue need not detain us any further because it is not the case of department that the appellant sought employment based on 10th standard*

marksheet. It is their positive case that the appellant sought employment on the basis of his 8th standard marksheet. Shravan Lal-PW-4 in the departmental enquiry had also furnished the 10th standard marksheet procured from the Secondary Education Board, Ajmer. In cross-examination, on being asked, he admitted that the appellant was recruited on the basis of 8th standard marksheet, and he admitted that there was no alteration in the 8th standard marksheet.

30. In view of the above, we declare that the order of termination dated 31.03.2004; the order of the Appellate Authority dated 08.10.2004; the orders dated 29.03.2008 and 25.06.2008 refusing to reconsider and review the penalty respectively, are all illegal and untenable."

5.4. He then took this Court to have regard to *Maharana Pratap Singh Vrs. State of Bihar, (2025) 4 SCR 1662,* to contend that the respondent should not feel prejudiced by application of principles of fairness as well as natural justice in the conduct of departmental proceeding. In the said judgment the following are the observations of the Hon'ble Supreme Court of India:

"50. The judgment acquitting the appellant reveals that the prosecution "miserably failed to prove its case beyond reasonable doubt" as both the informant and PW-2 refused to identify the appellant in court. This discussion confirms that the appellant's acquittal was based not on mere technicalities. In Ram Lal, (2024) 1 SCC 175, this Court held that terms like "benefit of doubt" or "honourably acquitted" should

not be treated as formalities. The Court's duty is to focus on the substance of the judgment, rather than the terminology used.

51. *That apart, it is noteworthy that in course of the inquiry PW-2 had also declined to identify the appellant during cross-examination, and the informant was not called as a witness in the disciplinary proceedings. This sort of creates a parallel between the circumstances in both the criminal and disciplinary proceedings.*

52. ***Besides, the appellant's case is strengthened by the principle of adverse inference. It can be reasonably inferred that the respondents deliberately withheld the scanned copy of the departmental file, which was essential for us to assess whether the charges, witnesses, evidence, and circumstances in both the criminal and departmental proceedings were substantially similar or identical, likely due to concerns over the potential adverse consequences****.*

53. *In light of the preceding discussion and the adverse presumption that is available to be drawn, we hold that the finding of the appellant being guilty of charge No.1 cannot be sustained following his acquittal in the criminal proceedings, which seem to have involved substantially similar or identical charges, evidence, witnesses, and circumstances.*

55. *Law is trite that while exercising its powers under Articles 226 and 227 of the Constitution, the High Court does not exercise powers that are available to an appellate court.* ***It is the decision-making***

process that falls for scrutiny. *Be that as it may, the High Courts can rectify errors of law or procedural irregularities, if any, that lead to a manifest miscarriage of justice or breach of the principles of natural justice.* ***Law is also well-established that the standards for establishing a guilt in disciplinary proceedings differ from those applicable to criminal proceedings.*** *However, it is equally true that departmental authorities are obligated to provide a fair opportunity to the parties involved, and what constitutes a fair opportunity must be determined based on the facts and circumstances of each case, as has been laid down in State of Mysore Vrs. Shivabasappa Shivappa Makarpur, AIR 1963 SC 375.*

56. ***It is well-established that any action resulting in penal or adverse consequences must be consistent with the principles of natural justice.*** *To sustain a complaint of natural justice violation, based on lack of opportunity for cross-examination, the party alleging the violation must show that prejudice was caused, as affirmed by this Court in L.K. Tripathi Vrs. State Bank of India, AIR 1984 SC 273.*

57. *Upon perusal of the decisions of this Court in the preceding paragraphs, it is evident that the denial of the right to cross-examine PW-1 caused prejudice to the appellant, who should have been afforded the opportunity for cross-examination for three reasons:*

first, had PW-1 been cross-examined, particularly regarding the appellant's claim of personal animosity, it is plausible that such examination could have

influenced the Inquiry Officer's findings, potentially leading to a different conclusion;

second, *the Inquiry Officer placed significant reliance on PW1's testimony to substantiate proof of the charges against the appellant which could have been demolished had a chance of cross-examination been extended; and*

third, *PW-2, the only other witness, refused to identify the appellant during cross-examination.*

58. *Further, we observe that the Inquiry Officer and the respondents 5, 4, and 2 have compromised their ability to reach a fair conclusion by considering factors extraneous to the evidence and merits of the case, viz., the fact that charge 2 was made part of the charge-sheet although the appellant had been punished therefor previously.*

59. *Also, the Inquiry Officer and the respondents 5, 4, and 2 have disregarded that the informant, whose complaint initiated the disciplinary proceedings, was not made a witness. The testimonies of PW-1 and PW-2 reflect a failed attempt to establish the contents of the informant's written complaint, as the former was not crossexamined, and the latter failed to identify the appellant during crossexamination. Additionally, the potential bias of PW-1 as an interested witness, was not given proper consideration or weight.*

60. *Regarding charge No. 2, while a previous finding in respect of a guilt can form part of a subsequent charge-sheet to award enhanced punishment, the law requires the disciplinary authority to give sufficient notice to the charged employee of such intention to take the same into consideration for deciding the question of punishment. Useful reference could be made to the decisions in State of Mysore Vrs. K. Manche Gowda, AIR 1964 SC 506 and Nicholas Piramal India Limited Vrs. Harisingh, (2015) 8 SCC 272. The argument of the appellant to the contrary is overruled.* ***Since, however, the disciplinary proceedings have been found to be suffering from incurable defects, assessment of the appellant's conduct for deciding on the punishment does not really survive****.*

61. *Concerning charge No. 3, the charge explicitly states that the appellant was arrested on 8th August, 1988. Consequently, it is implausible that the appellant could have resumed his duties on the same date, after his earned leave had expired, especially since the respondents have not raised any objection regarding the date of the appellant's arrest.*

62. *Finally, what remains is charge no. 4. Having been arrested, the appellant could not have reasonably been expected to inform the fact of his arrest till such time he was granted bail. The appellant claimed that he requested PW-1 to notify the CID authorities of his arrest, but PW-1 failed to do so due to personal animosity. This appears to be probable, in the absence of any contra-material on record.*

63. Accordingly, this Court concludes based on the materials available on record that the disciplinary proceedings had not been conducted against the appellant in tune with principles of fairness as well as natural justice which severely prejudiced his defence. The impugned order, thus, is unsustainable."

5.5. Sri Krushna Chandra Sahu, learned Advocate vociferously submitted that in view of the decisions of Hon'ble Supreme Court of India laying down that though criminal case and departmental proceeding can simultaneously be progressed, if the context, charges and witnesses/evidence in the criminal case are identical to that of the departmental proceeding, then the latter should await outcome of the criminal case.

5.6. He, therefore, fervently urged that in the present matter inasmuch as the criminal case has been instituted with respect to impersonation of the examinee based on report submitted by the Central Forensic Science Laboratory, Kolkata, the departmental proceeding against the respondent based on such report should not continue and the resultant effect of the departmental proceeding shall have impact on the criminal case.

Analysis and discussions:

6. The papers in Annexure-3 series enclosed with the writ appeal indicate the fact of forwarding documents to the

Central Forensic Science Laboratory, Kolkata and report of said Laboratory. Perusal of documents enclosed with the writ petition would show that Memorandum dated 04.08.2025 has been issued to the respondent by the FCI inviting written statement of defence with respect to enquiry as to misconduct or misbehaviour as mentioned in the article of charges framed pursuant to report dated 29.02.2024 received from the Central Forensic Science Laboratory, Kolkata *qua* the respondent that *"The person who wrote the blue enclosed signatures stamped and marked S1 to S4, S4/1 to S4/4 and S5 to S7, S1/1 to S3/1, S4/5, S5/1 and S6/1 did not write the red enclosed signatures similarly stamped and marked Q1 and Q2"*. Annexures-II and III appended to the said Article of Charges indicate description of each document that was sent to the Central Forensic Science Laboratory along with other documents relied upon has been made known to the respondent. List of witnesses is also enclosed thereto as Annexure-IV. Close scrutiny of FIR No.RC09(A)/2024-BBS (RC0152024A0009) enclosed as Annexure-1 with the writ petition does not disclose the name of the respondent/writ petitioner. However, reading of impugned Order dated 04.02.2026 of the learned Single Judge transpires that though the departmental proceeding is directed to be continued, passing final order is restrained till disposal of CBI proceeding. The document being Letter dated

25.02.2026 issued by the DIG of Police/HoB, CBI, ACB, Bhubaneswar reflects that the investigation is under actively in progress.

6.1. These unflinching materials on record lead to make one understand that no criminal case has yet been initiated as against the respondent/writ petitioner. The persistent approach of the learned counsel is to persuade this Court to appreciate that the ratio laid down in the decisions cited hereinabove *ipso facto* would be applicable. It goes to demonstrate that the order of the learned Single Judge does not warrant interference.

6.2. Before considering the applicability of principles as set forth in the decisions cited by the learned counsel for the respondent, it is apt to have regard to *Union of India Vrs. Arulmozhi Iniarasu, (2011) 7 SCC 397*, wherein it has been succinctly stated as:

> *"14. Before examining the first limb of the question, formulated above, it would be instructive to note, as a preface, the well-settled principle of law in the matter of applying precedents that the Court should not place reliance on decisions without discussing as to how the fact situation of the case before it fits in with the fact situation of the decision on which reliance is placed. The observations of the courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated.*

Disposal of cases by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases. [Ref. Bharat Petroleum Corpn. Ltd. Vrs. N.R. Vairamani, (2004) 8 SCC 579; Sarva Shramik Sanghatana (KV) Vrs. State of Maharashtra, (2008) 1 SCC 494 and Bhuwalka Steel Industries Ltd. Vrs. Bombay Iron & Steel Labour Board, (2010) 2 SCC 273."

6.3. Regard being had to the cited decisions it emerges therefrom that:

i. Proceedings in the criminal case and the departmental proceeding can proceed simultaneously with a little exception. Whereas in the departmental proceeding, where a charge relating to misconduct is being investigated, the factors operating in the mind of the disciplinary authority may be many such as 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 than that required in a criminal case.

ii. Whereas in the departmental proceedings the standard of proof is one of *preponderance of the probabilities*, in the criminal case, the charge has to be proved by the prosecution *beyond reasonable doubt*. The little exception may be where the

departmental proceedings and the criminal case are based on the same set of facts and the evidence in both the proceedings is common without there being a variance.

iii. Staying of disciplinary proceeding 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 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 by providing further that this may be done in cases of grave nature involving questions of fact and law.

iv. 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.

v. 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.

vi. 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.

vii. The charges in the departmental proceeding and the criminal case are to be just similar and identical and the evidence, witnesses and circumstances are also to be all the same.

viii. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives.

ix. 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.

x. While exercising its powers under Articles 226 and 227 of the Constitution of India, the High Court does not exercise powers that are available to an appellate court. It is the decision-making process that falls for scrutiny. The High Court can rectify errors of law or procedural irregularities, if any, that lead to a manifest miscarriage of justice or breach of the principles of natural justice.

xi. Departmental authorities are obligated to provide a fair opportunity to the parties involved, and what constitutes a fair opportunity must be determined based on the facts and circumstances of each case.

6.4. Bearing in mind the above delineated legal perspective, when the same is applied to the present fact-situation, this Court is of the firm opinion that the decisions relied upon are distinguishable on facts. The decisions are rendered in the context of effect of acquittal in the criminal case on the departmental proceeding. It is obligatory on the part of the Court to examine whether the charges framed in the departmental proceeding and by the criminal court are identical and the witnesses to

be examined in the criminal trial and before the disciplinary authority would be the same.

6.5. Meticulous scrutiny of the documents made available on records *vis-a-vis* order in the writ petition would indicate that the learned Single Judge has not examined the said issue. This apart, it is placed on record and undisputed that as on date no criminal case has been stated to be pending against the respondent. The information imparted by the DIG of Police/HoB, CBI, ACB, Bhubaneswar in Letter dated 25.02.2025 made it clear that the investigation with respect to the FIR, which does not disclose the name of the respondent, is still in progress.

6.6. Stemming on the ratio of the decisions cited by the counsel for the respondent, it can safely be said that the facts based on which the ratio laid down therein does not apply to the instant fact scenario of the case. It may be pertinent to reiterate that for the criminal case has yet to be instituted against the respondent, on the principle that 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 Order dated 04.02.2026 of the learned Single Judge cannot be sustained.

Conclusion:

7. This Court finds sufficient force in the argument of Sri Milan Kanungo, learned Senior Advocate that gravamen of charges against the respondent on the basis of report dated 29.02.2024 of the Central Forensic Science Laboratory (Annexure-3 series) are to be tested in the course of departmental proceeding. Since the criminal case is yet to be launched upon completion of investigation, staying departmental proceeding would be detrimental to the administration as the interests of administration and good governance demand that these proceedings are concluded expeditiously so as to facilitate undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. The disciplinary proceeding is meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements.

7.1. Being not oblivious of proposition contained in *State Bank of India Vrs. Neelam Nag, (2016) 5 SCR 278*[2] that mere long pendency of criminal case cannot be the sole ground to suspend disciplinary proceedings against the

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[2] At paragraph 12 of *State Bank of India Vrs. Neelam Nag, (2016) 5 SCR 278* it has been stated thus:
"In the peculiar facts of the present case, therefore, we accede to the contention of the appellants that the pendency of the criminal case against the respondent ***cannot be the sole basis to suspend the disciplinary proceedings initiated against the respondent for an indefinite period****; and in larger public interest, the order as passed in Stanzen Toyotetsu India Private Limited Vrs. Girish V. & Ors. (2014) 3 SCC 636 = (2014) 1 SCR 758 case be followed even in the fact situation of the present case,* ***to balance the equities****."*

respondent for an indefinite period, this Court is brought to the notice of an Order dated 05.03.2025 of the Hon'ble Supreme Court of India rendered in the case of *Food Corporation of India Vrs. Harish Prakash Hinunia, Civil Appeal No.3586 of 2025* wherein it has been observed as follows:

> *"4. Learned counsel for the appellants submits that only on the ground that there is a substantive criminal case pending, till the disposal of the same, the appellants should not initiate any departmental proceeding against the respondent. Learned counsel submitted that in the present facts of the case, the High Court has relied upon judgments which do not completely bar the departmental proceedings to go on simultaneously to the criminal trial while ensuring that the defence of the employee in the criminal case may not be prejudiced. It was submitted that same are distinguishable inasmuch as they only state that it is desirable to keep the departmental proceeding pending where there is a criminal case pending but the distinguishing factor here is that it relates to integrity of the individual and the charges are relating to his discharge of duties in the appellant-Corporation. Thus, it was submitted that the respondent not being proceeded departmentally is against the public interest also for a person who has been charged of financial irregularity and accepting bribe is made to continue in the organisation without the employer having the right to even initiate the departmental proceeding.*

5. *Learned counsel for the respondent submitted that* ***the charges were identical in both the criminal case and the proposed departmental inquiry and thus, the High Court has rightly directed the appellants not to proceed with departmental proceeding.*** *Further, he submitted that one charge was different in the criminal case and with regard to that the High Court has permitted them to proceed with the departmental proceeding but even after a long gap of time, no such proceeding has been initiated.*

6. *Having considered the matter, we find that in the present facts and circumstances of the case, the order of the High Court is not justified. The respondent is said to have been the beneficiary of Rs.1,00,000/- (Rupees One Lakh Only) as bribe and for that, criminal case was instituted and departmental proceeding was proposed.* ***Thus, preventing the appellants from initiating the departmental proceeding would not be proper as the charge is serious and relates to the very discharge of the duties and functions of the respondent in the appellant-Corporation****.*

7. *For the reasons aforesaid, the Civil Appeal is allowed. The order of the High Court is set aside. The appellants are free to initiate the departmental proceeding against the respondent of charges for which the department proceeding was proposed and also issued. Needless to say that the criminal proceeding shall be decided strictly on the basis of evidence adduced before the Court."*

7.2. In the case of *Ministry of Defence Vrs. Prabhash Chandra Mirdha, (2012) 11 SCC 565* it has been held that:

> *"10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/ competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court. (Vide State of U.P. Vrs. Brahm Datt Sharma, (1987) 2 SCC 179 = AIR 1987 SC 943, Bihar State Housing Board Vrs. Ramesh Kumar Singh, (1996) 1 SCC 327, Ulagappa Vrs. Commr., (2001) 10 SCC 639 = AIR 2000 SC 3603, Special Director Vrs. Mohd. Ghulam Ghouse, (2004) 3 SCC 440 = AIR 2004 SC 1467 and Union of India Vrs. Kunisetty Satyanarayana, (2006) 12 SCC 28.)"*

7.3. A bare perusal of the record shows that the writ petition was disposed of on the same day when the case was listed for the first time and the appellants had had no occasion to file response. The learned Single Judge came to an abrupt conclusion on the basis of submissions of the learned counsel for the respondent and came to observe that "both the proceedings have been initiated

on selfsame charges". To arrive at such a conclusion since learned Single Judge has not indicated even skeleton basis that matter is substantially the same. Though elaborate reasoning may not be necessary to be indicted, certainly, the skeletal description of how there is substantial similarity has to be indicated. The fact emanated from the records as discussed above is that the name of the respondent does not find place in the FIR and on the basis of the Central Forensic Science Laboratory, Kolkata the departmental proceeding has been initiated by issue of Memorandum enclosed therewith article of charges, list of witnesses, *etc.* The respondent would have occasion to defend his case before the disciplinary authority. When the criminal case has not yet commenced, it is preposterous at this juncture to say that the nature of allegation, material to be used and witnesses in both the proceedings are the same. Accordingly, the impugned order of the learned Single Judge warrants interference.

7.4. In such view of the matter, the impugned Order dated 04.02.2026 passed in W.P.(C) No.3337 of 2026 cannot withstand and is, thus, held to be untenable.

8. In the wake of above discussions on the fact and the law and having ascribed reason to differ with the view expressed by the learned Single Judge *vide* Annexure-1, there can be no other opinion than to set aside the Order

dated 04.02.2026 in W.P.(C) No.3337 of 2026. The appellants may proceed with the departmental proceeding and the respondent is at liberty to participate in such proceeding and file his written statement of defence. The appellants after adhering to principles of natural justice, shall proceed to arrive at the logical end in accordance with law.

9. In the result, the writ appeal is allowed and pending Interlocutory Application(s), if any, shall also stand disposed of. However, in the circumstances, there shall be no order as to costs.

I agree.

(HARISH TANDON)
CHIEF JUSTICE

(MURAHARI SRI RAMAN)
JUDGE

Signature Not Verified
Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: Personal Assistant
(Secretary in-charge)
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 11-Sep-2026 11:29:35