

2025:AHC:141706
Reserved :- 12/08/2025
Delivered :- 20/08/2025

Court No. - 5

Case :- WRIT - A No. - 11453 of 2025

Petitioner :- Rajendra Prasad

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Ram Narain

Counsel for Respondent :- A.S.G.I., Anadi Krishna Narayana, Ritu

Hon'ble Saurabh Shyam Shamshery, J.

1. Petitioner has challenged an order dated 17.12.2015 whereby he was awarded a punishment of compulsorily retirement with superannuation benefits after a period of 10 years, on a ground that on similar set of facts and evidence, a criminal trial initiated against him was resulted in judgment of acquittal dated 02.09.2024.

2. Sri Ram Narain, learned counsel for petitioner has referred the judgment dated 02.09.2024 passed by Chief Judicial Magistrate, Mirzapur in Warrant or Summons Criminal Case No. 7565/2024.

3. Learned counsel for petitioner has submitted that in the trial, all relevant witnesses i.e. customers of bank, wherein petitioner was employed, have not supported case of prosecution and have declared hostile and he was granted acquittal. For reference, relevant part of judgment of acquittal is quoted below :-

“अतः उपरोक्त साक्ष्यों के विश्लेषण के उपरान्त यह तथ्य पूर्णतः स्पष्ट हो जाता है कि अभियुक्त राजेन्द्र प्रसाद के विरुद्ध आरोपित अपराध के संबंध में अभियोजन की तरफ से परीक्षित कराये गये साक्षीगण साक्षी पी०डब्लू०-1 महेन्द्र कुमार गुप्ता खाता संख्या-28460100006421, पी०डब्लू०-2 नियाशा देवी खाता संख्या 28460100001296, पी०डब्लू०-4 मीरा देवी खाता संख्या-284601000011806,

पी०डब्लू०-5 नीरज वर्मा खाता संख्या-284601000012129,
 पी०डब्लू०-6 मीरा देवी खाता संख्या 28460100003598,
 पी०डब्लू०-7 मटरूलाल खाता संख्या-2830010001550,
 पी०डब्लू०-8 कृष्ण मोहन चौबे खाता संख्या 78460100006652 व
 पी०डब्लू०-9 श्रीमती कमला देवी खाता संख्या 28460100014004
 द्वारा अपनी मुख्य परीक्षा में कथन किया गया है कि उनके खातों में कोई भी हेरा-फेरी या धोखाधड़ी नहीं की गयी है। उपरोक्त साक्षीगण के खातों में जो भी जमा व निकासी की गयी है वह स्वयं उनके द्वारा ही की गयी है। उपरोक्त साक्षीगण के द्वारा अपनी मुख्य परीक्षा में ही अभियोजन कथानक का समर्थन नहीं किया गया है। अभियोजन द्वारा ऐसा कोई कथन या साक्ष्य प्रस्तुत नहीं किया गया है, जो अभियुक्त को उसके विरुद्ध आरोपित अपराध से जोड़ता हो, क्योंकि तथ्य के साक्षीगण ने अपनी मुख्य परीक्षा में स्पष्ट कथन किया गया है कि विपक्षी राजेन्द्र द्वारा उनके खातों में किसी प्रकार की हेराफेरी या धोखाधड़ी न किये जाने का कथन किया है।

आपराधिक विधि का यह सुस्थापित सिद्धांत है कि अभियोजन को अपना मामला संदेह से परे सिद्ध करना है तथा यह भी स्थापित विधि है कि मामला संदेह से परे साबित न किये जाने की स्थिति में संदेह का लाभ अभियुक्त को प्रदान किया जायेगा। यद्यपि अभियोजन दस्तावेजों की सत्यता को अभियुक्त स्वीकार किया है, परन्तु मात्र दस्तावेजों के स्वीकार कर लेने के आधार पर ही अभियोजन कथानक को पुष्ट नहीं माना जा सकता, जब तक कि मौखिक साक्ष्य से अभियोजन कथानक की पुष्टि न हुई हो।

उपरोक्त सम्पूर्ण साक्ष्यों के विश्लेषण के उपरान्त में इस निष्कर्ष पर पहुंचता हूं कि अभियोजन पक्ष, अभियुक्त राजेन्द्र प्रसाद द्वारा खाताधारकों के खाते में हेराफेरी व धोखाधड़ी किये जाने के तथ्यों को प्रस्तुत साक्ष्य से संदेह से परे साबित करने में पूर्णतः असफल रहा है। अतः अभियुक्त राजेन्द्र प्रसाद को अन्तर्गत धारा-218 भा०दं० संहिता के दण्डनीय आरोपों से दोष-मुक्त किये जाने योग्य हैं।”

4. Learned counsel for petitioner has submitted that on basis of acquittal, the punishment order is liable to be set aside, since it was based on same set of evidence. In support of his submissions, learned counsel for petitioner has placed reliance upon a judgment of Supreme Court in **Imtiyaz Ahmad Malla vs. State of Jammu and Kashmir and others, (2023) 19 SCC 588.**

5. Per contra, Sri Ashok Trivedi and Ms. Ritudhar, learned advocates for respondents have submitted that not only there is a delay of 10 years in challenging the impugned order but from contents of impugned order, it would be clearly evident that it was decided on preponderance of probabilities and has different

set of evidence and witnesses and, therefore, subsequent acquittal would have not effect.

6. Before dealing with rival submissions, Court takes note of a judgment passed by Supreme Court in **Ram Lal vs. State of Rajasthan, 2023 SCC Online SC 1618** wherein a similar issue i.e. *“On the facts of the case, what is the effect of the acquittal, ordered by the Appellate Judge in the 4 criminal trial, on the order of dismissal passed in the departmental enquiry?”* was considered and its relevant paragraphs 11 to 13 are quoted below :-

“11. We are also conscious of the fact that mere acquittal by a criminal court will not confer on the employee a right to claim any benefit, including reinstatement. (See *State of T.N. v. S. Samuthiram* [*State of T.N. v. S. Samuthiram*, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] .)

12. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the Court in judicial review concludes 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, the Court in judicial review can grant redress in certain circumstances. The Court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive. Each case will turn on its own facts. (See *G.M. Tank v. State of Gujarat* [*G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , *State Bank of Hyderabad v. P. Kata Rao* [*State Bank of Hyderabad v. P. Kata Rao*, (2008) 15 SCC 657 : (2009) 2 SCC (L&S) 489] and *S. Samuthiram* [*State of T.N. v. S. Samuthiram*,

(2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 :
(2013) 1 SCC (L&S) 229] .)

Discussion

Validity of the disciplinary proceeding – Question 1

13. A brief analysis of the facts of the case is essential. The origin of this dispute, which does not inspire confidence at all, is as follows. The appellant's cousin Shravan Lal (PW 4 in the departmental enquiry and PW 6 in the criminal case), deposed as under before the enquiry officer:

“Stated on enquiry that about 13 months ago, I was operating engine at well. On that day at about 3.00 p.m., Ramlal after drinking liquor, came at well and switched off the engine. Thereafter, Ramlal abused me and scuffled with me and said that today I will operate the engine and you cannot do anything to me. I have received job by fooling the Government. When I enquired him that how you did that, then, Ramlal told me that I have received job by altering my date of birth as 21-4-1972 in my marksheet, whereas, my date of birth was 21-4-1974. *Thereafter I went to school and enquired about this fact, whereupon I came to know that his date of birth was 21-4-1974.* Due to this reason, I produced an application before the Superintendent of Police, Ajmer and made one report to the Commandant, 9th Battalion, RAC, Tonk and I also made one report to the Hon'ble Chief Minister and one report to DIG, RAC, Rajasthan, Jaipur....”

(emphasis supplied)”

7. In above background, I have carefully perused judgment of acquittal wherein the material prosecution witnesses i.e. customers have not supported case of prosecution, therefore, offences were not proved beyond reasonable doubt and order of acquittal was passed, therefore, it is not a case of honourable acquittal. (see **Deputy Inspector General of Police and another vs. S. Samuthiram, (2013) 1 SCC 598 ; State of Rajasthan and others**

vs. Love Kush Meena, 2021 SCC Online SC 252 ; Avtar Singh vs. Union of India and others, (2016) 8 SCC 471)

8. Therefore, the question whether on such set of evidence and witnesses, petitioner was granted acquittal does not survive.

9. Court also takes note that departmental proceedings were conducted in a fair manner, principles of natural justice were followed and on basis of material evidence, charges i.e. petitioner has debited accounts of customers without explicit mandate and instruction and in withdrawing funds from accounts of bank's customers without mandating his/her signature keeping with specimen of bank records, therefore no error in decision making process is evident.

10. The only aspect which may favour the petitioner is that no customer was examined during disciplinary proceedings, however, it could not be fatal to entire disciplinary proceedings since established procedure was not followed by petitioner during his working as well as punishment of compulsory retirement with superannuation benefits is not shockingly disproportionate.

11. In aforesaid circumstances, legal position as held in Ram Lal (*supra*) that it is not a case that acquittal in criminal proceedings was after the full consideration of prosecution evidence and that prosecution has miserably failed to prove the charges since in present case witnesses have not supported case of prosecution and were declared hostile, therefore, it is not a case that a Court in judicial review can grant redress to petitioner.

12. Court also takes note of judgment of **Imtiyaz Ahmad Malla** (*supra*), however, it is distinguishable from facts of present case

since it was in regard to initial appointment and suppression of a fact of a criminal case wherein later on an order of acquittal was passed.

13. In view of above circumstances, this Court does not find any ground to interfere with impugned order. Accordingly, writ petition lacks merit, hence, **dismissed**.

Order Date :- August 20, 2025

N. Sinha

[Saurabh Shyam Shamshery, J.]