



2026:AHC:86393

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - A No. - 4116 of 2019

Kunwar Pal Singh

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Pawan Kumar Tripathi, Vijay Gautam,
Vijay Gautam(Senior Adv.), Vinod
Kumar Mishra
Counsel for Respondent(s) : C.S.C.

Court No. - 34

A.F.R

Judgement Reserved on 30.03.2026

Judgement Delivered on 20.04.2026

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Pawan Kumar Tripathi, learned counsel assisted by Sri Deepanshu Sharma, learned counsel for the petitioner and Sri Gaurav Singh, learned Standing Counsel for the State respondents.

2. The briefly stated facts of the case are that the petitioner was posted as Constable on 15.05.1982 in the U.P. Police Department. At the relevant time in the year 2011, the petitioner was posted as Constable at Police Line, District- Firozabad. On 14.12.2011, the petitioner was assigned duty to present an accused at Sadar Lockup. While on such duty, allegedly the petitioner got intoxicated and due to such intoxication consumed by the petitioner, a gunshot fire from his service rifle took place, due to which private persons got injured. With regard to the aforesaid incident, an F.I.R. was lodged against the petitioner being Case Crime No. 318 of 2011 at Police Station- Mathsena, District- Firozabad. Thereafter, a preliminary inquiry was conducted with regard to the misconduct of the petitioner herein by an Inquiry Officer appointed by the Department, who held the petitioner herein guilty of the misconduct. Thereafter, on the basis of the report of the preliminary inquiry, the departmental disciplinary proceedings were initiated against the petitioner under Rule 14 (1) of the UP Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules 1991 (hereinafter

referred to as '1991 Rules').

3. In the disciplinary proceedings, the Inquiry Officer was appointed to conduct the inquiry against the petitioner with regard to the aforesaid misconduct, due to which bullet was fired from his service rifle causing injury to private persons during intoxication while on duty. Initially, the disciplinary inquiry was handed over to Shri Asharam Yadav, the then Circle Officer. On 30.07.2012, the charge-sheet was issued by him with the approval of the Disciplinary Authority to the petitioner, which was served through the daughter of the petitioner as the petitioner was not found at his given address on 17.09.2012.

4. Thereafter, the inquiry was handed over to Shishpal Singh, Circle Officer, Firozabad, who noted that the charge-sheet had been duly served, acknowledgement of the daughter of the petitioner is available on record. Thereafter, he proceeded with the inquiry and called for the witnesses and intimation with regard to the date, time, and place of the disciplinary proceedings to be conducted was sent to the petitioner calling upon the petitioner to cross-examine the witnesses, if he so desires but petitioner did not appear before the Inquiry Officer in the entire inquiry proceedings. Thus, the Inquiry Officer had no other option but to proceed with recording the statements of witnesses in accordance with rules *ex-parte*. The witnesses have categorically stated that after the incident medical examination of the petitioner was conducted, wherein it was proved that the petitioner had consumed alcohol. Thus, from the evidence available on record, the Inquiry Officer concluded that the petitioner herein was guilty of intoxication while on duty and due to his negligence a bullet was fired from his service rifle, due to which two public persons namely, Buddhpal and Chunnilal had sustained injuries and for the aforesaid incident, an F.I.R. was lodged by one Rajkumar, being Case Crime No. 318 of 2011 under section 307 I.P.C.

5. In the medical examination of the petitioner, intoxication was found, therefore, the Inquiry Officer held him guilty of the aforesaid charges and also recommended the punishment of removal from services in his inquiry report dated 29.06.2013. Therefore, on 03.07.2013, a show-cause notice was issued by Superintendent of Police, Firozabad to the petitioner herein along with the copy of the inquiry report. The petitioner had submitted his

explanation to the aforesaid show-cause notice, stating therein that while performing his duties to escort the accused in the Court of ACJM-II, Firozabad and looking at sensitivity and crowd he kept the loaded rifle with him to ensure that the accused cannot escape or assaulted by the opposite parties. The opposite parties to the accused had crowded him in the verandah of the ACJM-II Court and had tried to snatch the rifle from him. Thereafter, the petitioner consciously kept the point of rifle towards the roof, however, due to the crowd, someone had pressed the trigger, thus the fire was caused, the bullet first touched to the roof and thereafter came back on the floor and due to some stones from the floor hit the injured persons. Thus, he submitted that he has not committed any misconduct deliberately and he has not been negligent in his duties. Had he been negligent then there would have been some mishappening. The petitioner was immediately arrested and was sent to jail without giving any opportunity to explain his conduct. The matter was investigated by the Investigation Officer and in the said offense, only offense under Sections 286 and 338 I.P.C. was found to have been committed and thereafter the petitioner was released on bail and the trial is pending. However, with regard to the aforesaid reply/explanation submitted by the petitioner, neither the date has been given on which date the said explanation/reply was submitted by petitioner nor there is any acknowledgment that the said reply/explanation was actually submitted by him.

6. The Superintendent of Police being the Disciplinary Authority has categorically noted that initial show-cause notice was sent to petitioner on 03.07.2013 calling upon him to submit his explanation. Thereafter, it was submitted by the Police Line- Hathras that the petitioner is absent from his duties from 28.06.2013. Thereafter, a copy of show-cause notice was sent through Special Messenger to his permanent address at Village- Khoobkhabar, P.S.- Lodha, District- Aligarh, wherein it was informed by various persons, resident of the said village, that he is not residing in the village and has sold his house and land and shifted to Aligarh. Thereafter, again, the Special Messenger was sent to his address at Aligarh, wherein the notice was duly served on the petitioner on 30.07.2013. He was expected to submit his reply/explanation within 15 days. Since, the petitioner has failed to submit any explanation or reply to the show-cause notice, thereafter, the Disciplinary Authority has proceeded *ex-parte* and has passed the

punishment order of removal from service on 19.08.2013. Being aggrieved by the same, the petitioner herein has filed a statutory appeal before the Deputy Inspector General of Police, Agra Zone, Agra, which was dismissed by the Appellate Authority on 21.12.2013. Thereafter, the petitioner has submitted a revision petition on 21.05.2015, though the copy of the order of the Appellate Authority was duly served to the petitioner on 17.01.2014. Thereafter, the Revisional Authority having found that the revision is time-barred, the same was dismissed. Being aggrieved by the aforesaid three orders passed by the Disciplinary Authority, Appellate Authority, as well as the Revisional Authority, the instant petition has been filed by the petitioner herein.

7. Learned counsel for the petitioner has submitted that the petitioner herein has already been acquitted in the criminal case, lodged for the identical allegations against the petitioner herein. Initially, the Case Crime No. 318 of 2011 was registered under Section 307 I.P.C, however, the charge-sheet was filed under Sections 286 and 338 I.P.C., for which the petitioner was tried and after trial, giving *benefit of doubt* to the petitioner he was acquitted.

8. In support of this submission, learned counsel for the petitioner has relied upon the judgment and order dated 26.09.2024 passed by the Division Bench of this Court in ***Special Appeal No. 601 of 2024 (Constable No.118 Awadhes Kumar Pandey vs. State of U.P. and 3 Others)***.

"37. We have also carefully perused the judgment of trial court, which is on record, and it can be safely said that the petitioner-appellant was honorably acquitted. We find that the disciplinary proceeding and the orders passed thereon cannot be allowed to stand. The charges were not just the same but identical and the evidence, witnesses and circumstances were all the same. Merely on the basis of two days absence, that so due to ailment, no such major penalty can be inflicted. Accordingly, question no.2 is answered. "

9. Learned counsel for the petitioner submitted that since the petitioner has been acquitted for the identical charges in a judicial trial, therefore, the punishment order on the basis of the identical charges cannot be sustained in law. Thus, the petitioner is entitled for reinstatement with all consequential

benefits. It is further submitted by learned counsel for the petitioner that the Inquiry Officer has recommended the punishment in the inquiry report itself, which is impermissible for the Inquiry Officer. Though, the Appendix 1 of 1991 Rules permits the Inquiry Officer to make the recommendation regarding the punishment to be imposed on the charged police officer, however, such recommendations ought to have been made separately, but not in the inquiry report and the Disciplinary Authority, without application of his mind, has simply agreed with the recommendation made by the Inquiry Officer and has passed the punishment order. The appeal filed by the petitioner against the order of removal from service was rejected and the revision has been dismissed as time-barred. Thus, learned counsel for the petitioner submits that since the Inquiry Officer has made the recommendations in inquiry report itself, then the entire inquiry proceedings gets vitiated. Thus, he seeks quashing of the inquiry proceedings as well as the termination order passed by the Disciplinary Authority and consequently the orders passed by the Appellate Authority and Revisional Authority.

10. *Per contra*, learned Standing Counsel for the State submits that on perusal of the inquiry, it is apparent that sufficient opportunity to defend himself was granted by the Inquiry Officer to the petitioner. The charge-sheet was duly served. Date, time, and place for examination of witnesses was duly intimated to the petitioner time and again, and despite that, the petitioner has failed to cooperate with the disciplinary proceedings. Thus, the Inquiry Officer had no other option but to proceed *ex-parte* against the petitioner, and has after examination of witnesses in accordance with law, has found petitioner guilty of the charges leveled against the petitioner. As per Appendix 1 attached to 1991 Rules, read with Rule 14 (1) empowers the Inquiry Officer, after conclusion of inquiry proceedings, to make the recommendation with regard to punishment. Thus, the aforesaid recommendation made by the Inquiry Officer were well within its powers. It is further submitted by learned Standing Counsel for the State that merely because the petitioner has been acquitted in a criminal trial, it would not amount to reversal of the findings of misconduct which were arrived in a fairly concluded disciplinary proceeding.

11. In support of the submission, learned Standing Counsel for the State has relied upon the judgment and order dated 02.09.2022 passed by the Apex

Court in ***Civil Appeal No. 5930 of 2022, State of Rajasthan and Ors. vs. Phool Singh***, and also in ***Maharana Pratap Singh vs. State of Bihar and Others, 2025 SCC Online SC 890***. Thus, Standing Counsel for the State seeks dismissal of the instant case.

12. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the records of the Case. The facts of the case have already been noted herein above. From the perusal of the inquiry report, it is apparent that the charge-sheet was served to the petitioner through her daughter and despite service of the charge-sheet the petitioner has failed to file any response to the said charge-sheet. Thereafter, under intimation to the petitioner and by calling upon him to join the inquiry proceedings and cross-examine the witnesses on the given date, time and place, since the petitioner failed to cooperate in the inquiry proceedings, the Inquiry Officer having no other option, had proceeded *ex-parte* against the petitioner in accordance with the law and he had examined the witnesses and thereupon has concluded the inquiry against the petitioner and found him guilty of the alleged charges against the petitioner. Thus, in the considered opinion of this Court, there is no illegality so far as the inquiry proceedings are concerned and the petitioner was found guilty by the Inquiry Officer.

13. So far as the argument raised by counsel for the petitioner that the Inquiry Officer had recommended the punishment in the inquiry report itself, which vitiates the inquiry proceedings and the inquiry report, this Court has gone through the provisions of Rule 14(1) along with Appendix 1 of 1991 Rules. The proviso to the Appendix specifically empowers the Disciplinary Authority to make the recommendation with regard to the punishment after conclusion of the guilt recorded by the Inquiry Officer. However, it is expected that such recommendation ought to have been made separately. The purpose of such recommendation being made separately appears to be that the aforesaid recommendations are in between the Inquiry Officer and the Disciplinary Authority and the same ought not to have been communicated to the delinquent officer that is why it is expected that such recommendations ought to have been made separately by the inquiry officer before any punishment order is passed. Thus, the aforesaid requirement is just a requirement of convenience and caution, however, the same would not vitiate the inquiry report itself, which has been otherwise based upon the

cogent evidence recorded by the Inquiry Officer, during the inquiry proceedings. Thus, in the considered opinion of this Court, the aforesaid argument advanced by learned counsel for the petitioner is not sustainable in law.

14. So far as the arguments advanced by the learned counsel for the petitioner that since the petitioner had been acquitted in the criminal trial for the identical allegation against the petitioner, thus, the petitioner is automatically entitled for reinstatement. In this regard, it is a settled position of law that the criminal trial as well as the disciplinary proceedings for identical allegations are two different things and operate in different spheres. The purpose of a criminal trial is to punish the offender for the offense committed by him and for such purpose, the allegations are required to be proved beyond reasonable doubt. So far as the disciplinary proceedings are concerned, the purpose thereof is to ascertain the misconduct, indiscipline committed by the delinquent officer while on service and with regard to the finding of guilt for misconduct, negligence, etc. by one's service, the degree of proof is preponderance of probabilities and not the strict proof as in the criminal trial.

15. Before proceeding further, it would be relevant to take note of some of the judgments of the Apex Court, which throw light on the aforesaid issue. In ***Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. & Anr : (1999) 3 SCC 679***, the Apex Court has drawn the following conclusion:-

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

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

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

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

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

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

16. According to the aforesaid judgment, the departmental proceedings as well as the criminal trial can proceed simultaneously as there is no bar to their being conducted simultaneously. However, it provides that where the charges in the departmental proceedings as well as 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. Whether the criminal case involves the grave charges or whether it involves the complicated questions of fact and law, will depend upon the nature of the offense, nature of the case lodged against the employee on the basis of the evidence and material collected during investigation. However, it has further been provided in the said judgment that the Stay of departmental proceedings cannot operate in isolation on the aforesaid principles but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed and wherever the disposal of criminal case is delayed, the disciplinary proceedings cannot be delayed.

17. In ***Karnataka Power Transmission Corporation Limited vs. C. Nagaraju*** : 2019 10 SCC 367, the Apex Court has held as under:

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

*11. Reliance was placed by the High Court on a judgment of this Court in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] whereby the writ petition filed by Respondent 1 was allowed. In the said case, the delinquent officer was charged for an offence punishable under Section 5(1)(e) read with Section 5(2) of the PC Act, 1988. **He was honourably acquitted by the criminal court as the prosecution failed to prove the charge. Thereafter, a departmental inquiry was conducted and he was dismissed from service.** The order of dismissal was upheld [G.M. Tank v. State of Gujarat, 2003 SCC OnLine Guj 487] by the High Court. In the appeal filed by the delinquent officer, this Court was of **the opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the criminal court and the departmental proceedings being exactly the same, this Court held that the acquittal of the employee by a criminal court has to be given due weight by the disciplinary authority. On the basis that the evidence in both the criminal trial and departmental inquiry is the same, the order of dismissal of the appellant therein was set aside. As stated earlier, the facts of this case are entirely different. The acquittal of Respondent 1 was due to non-availability of any evidence before the criminal court. The order of dismissal was on the basis of a report of the inquiry officer before whom there was ample evidence against Respondent 1.***

*12. In Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh [Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh, (2004) 8 SCC 200 : 2004 SCC (L&S) 1067] this Court was concerned with the validity of the termination of the services of workmen after acquittal by the criminal court. Dealing with a situation similar to the one in this case, **where the acquittal was due to lack of evidence before the criminal court and sufficient evidence was available before the Labour Court, this Court was of the opinion that the judgment in M. Paul Anthony case [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810] cannot come to the rescue of the workmen.***

13. Having considered the submissions made on behalf of the

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

18. In *Union of India vs. Sitaram Mishra : (2019) 20 SCC 588*, the Apex Court has observed as under:

“14. The fact that the first respondent was acquitted in the course of the criminal trial cannot operate ipso facto as a ground for vitiating the finding of misconduct which has been arrived at during the course of the disciplinary proceedings. The High Court, in our view, has drawn an erroneous inference from the decision of this Court in M. Paul Anthony v. Bharat Gold Mines Ltd. [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679: 1999 SCC (L&S) 810]. The High Court adverted to the following principle of law laid down in the above judgment: (SCC p. 687, para 13)

“13....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.”

15. It is undoubtedly **correct that the charge in the criminal trial**

arose from the death of a co-employee in the course of the incident resulting from the firing of a bullet which took place from the weapon which was assigned to the first respondent as a member of the Force. But the charge of misconduct is on the ground of the negligence of the first respondent in handling his weapon and his failure to comply with the departmental instructions in regard to the manner in which the weapon should be handled. Consequently, the acquittal in the criminal case was not a ground for setting aside the penalty which was imposed in the course of the disciplinary enquiry. Hence, having regard to the parameters that govern the exercise of judicial review in disciplinary matters, we are of the view that the judgment [Sitaram Mishra v. Union of India, 2007 SCC OnLine Cal 718 : (2008) 1 Cal LJ 863] of the Division Bench of the High Court is unsustainable.”

19. In *Ajit Kumar Negi vs. General Manager Indian Oil Corporation Limited* : (2005) 7 SCC 764, the Apex Court has observed as under:

“11. 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 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 offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with 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 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'....”

20. In ***State of Rajasthan vs. Heem Singh : (2020) SCC OnLine SC 886***, the Apex Court has observed as under:

“39. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest

with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

21. In **Phool Singh (Supra)**, the Apex Court has categorically observed as under:

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

8. There should be no ambiguity in law on this subject. A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of "preponderance of probabilities", in a criminal court the prosecution has to prove its case "beyond reasonable doubt". In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.

11. In the above case a distinction has also been drawn by this Court between a "criminal offence" and "Misconduct". One has to be proved in a criminal court, the other in a departmental proceedings, and though both may arise from the same set of facts, yet there is a clear distinction between the two and merely because one has been acquitted in a criminal trial, it would not amount to a reversal of the findings of "misconduct", which were arrived in a

departmental proceedings.....”

22. In **Ram Lal vs. State of Rajasthan & Ors. (Civil Appeal no. 7935 of 2023 dated 04.12.2023)**, the Apex Court has observed as under:

“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.”

23. In **Maharana Pratap Singh vs. State of Bihar and Others : 2025 SCC OnLine SC 890**, the Apex Court has observed as under:

“47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in G. M. Tank (supra), since reinforced by a decision of recent origin in Ram Lal v. State of Rajasthan:

48. To assess the degree of similarity between the charges, evidence, witnesses, and circumstances in the disciplinary and criminal proceedings, it is indeed crucial to review the materials placed before the Court where such an issue arises.....”

24. In **Commissioner of Police, New Delhi and Another vs. Mehar Singh : 2013 (7) SCC 685**, the Apex Court has observed as under:

“25. The expression ‘honourable acquittal’ was considered by this Court in S. Samuthiram. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 of the IPC and under Section 4 of the Eveteasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in Management of Reserve Bank of India, New Delhi v. Bhopal Singh Panchal[12], where in somewhat similar fact situation, this Court upheld a bank’s action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in departmental proceedings. This Court observed that the expressions ‘honourable acquittal’, ‘acquitted of blame’ and ‘fully exonerated’ are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression ‘honourably acquitted’. This Court expressed that when the accused is acquitted after full consideration of prosecution case and the prosecution miserably fails to prove the charges leveled against the accused, it can possibly be said that the accused was honourably acquitted.”

25. In **Constable No.118 Awadhes Kumar Pandey (Supra)** the Division Bench having examined the judgement passed by the trial court concluded that the appellant herein was acquitted and in the disciplinary proceedings he was punished only on the basis of two days' absence that due to ailment, thus found the penalty of punishment to be disproportionate, accordingly set-aside the same and directed the reinstatement of the appellant with 25% back wages along with all other consequential benefits.

26. The Coordinate Bench of this Court in **Anand Kumar vs. Union of India and Another : 2025 0 AHC 188636: 2025 0 Supreme (All) 3430**, having found various cases of the Apex Court in this regard, observed as under:-

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

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

27. In the aforesaid judgments, the legal position is crystal clear that the criminal trial and the disciplinary proceedings for the identical allegations operate in different spheres and both are not dependent on each other. Merely because an employee is acquitted in a criminal trial, he cannot be *ipso facto* reinstated in service due to such acquittal in criminal trial. In the recent judgments, after considering the previous judgments of the Apex Court, the Apex Court has categorically observed that merely the facts of acquittal in a criminal trial would not amount to reversal of findings of misconduct which were arrived at in the past proceedings. From the aforesaid judgments of the Apex Court it can be safely concluded that wherever charges and allegations were identical and the criminal court has acquitted then it is the duty of the Court to examine whether it was an honorable acquittal or *benefit of doubt* has been given to such employee. Even if there is an honorable acquittal the Court is required to examine whether the witnesses produced before the Disciplinary Authority and the criminal trial were the same. If there were the same set of witnesses then on the basis of the evidence led in the criminal court has acquitted then in such cases the reinstatement can be granted by the Court. However, if the court on scrutiny finds that the witnesses examined during the disciplinary proceedings have supported the allegations, however the same set of witnesses did not support the criminal trial or that there are some additional facts which have been proved in the disciplinary proceedings and which

were not the subject matter of trial then the court should not interfere in such concluded disciplinary proceedings.

28. In the light of the aforesaid judgments, it would be relevant to take note of the fact, from the perusal of the judgment of acquittal passed by the trial court it is apparent that most of the witnesses who were injured were turned hostile and did not support the prosecution case and the petitioner has been acquitted on the basis of his own statement, which is similar to the explanation allegedly submitted by the petitioner to the show-cause notice before the Disciplinary Authority and the petitioner has been acquitted as the petitioner, who was examined as DW1 has not been cross-examined by the prosecution.

29. From perusal of the inquiry report, there is ample evidence with regard to intoxication of the petitioner while on duty, as immediately after incident, the medical examination of the petitioner was conducted which has been duly supported by the witness examined during the inquiry proceedings and the petitioner was found intoxicated. Thus, the petitioner was found to be guilty of misconduct and due to the negligence the bullet fired from the service rifle of the petitioner. Having regard to the facts and record of the criminal trial as well as disciplinary proceedings, this Court finds that the evidence led in the disciplinary proceedings was comprehensive one and in the criminal trial, the petitioner has been acquitted on the basis of key witnesses turned hostile.

30. Thus, in considered opinion of this Court, it was not a clean acquittal of the petitioner. Therefore, this Court do not find any good reason to interfere with the impugned orders passed by Disciplinary Authority, Appellate Authority as well as the Revisional Authority and accordingly, the instant petition fails and is hereby ***dismissed***.

(Anish Kumar Gupta,J.)

April 20, 2026

Shubham Arya