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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3097/2015**

Date of decision: 27th September, 2016

RAJ SINGH

..... Petitioner

Through Mr. M.K. Bhardwaj and Ms.
Shriambhra Kashyap, Advocates.

versus

THE COMMISSIONER OF POLICE & ANR.

..... Respondents

Through Mr. Satyakam, Additional Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE SUNITA GUPTA

SANJIV KHANNA, J. (ORAL)

The petitioner-Raj Singh in this writ petition impugns the order dated 28th October, 2014, whereby OA No.3094/2013 filed by the petitioner has been dismissed by the Principal Bench of the Central Administrative Tribunal, Delhi (Tribunal, for short).

2. Learned counsel for the petitioner submits that the enquiry report is based upon assumptions, and the petitioner had released only one scooter number DL-4S-R 1813 as a Malkhana Muharar. On this basis, it cannot be assumed that the petitioner was instrumental in the release of six other vehicles, which were the subject matter of the charge sheet dated 21st November, 2011. He, however, submits that the vehicles were released after the Assistant Commissioner of Police had examined the relevant files and

issued written directions for the release. It has also been highlighted that the petitioner was charge-sheeted, but was acquitted by the Judicial Magistrate, Bahadurgarh, Haryana in FIR No.320/1999, registered on 19th December, 1999 under Sections 411/419/420/467/468/471 of the Indian Penal Code, 1860 in Police Station Sadar Bahadurgarh, Haryana.

3. At the outset, we may record that the judgment of acquittal dated 5th May, 2007 records that the material witnesses had not been examined by the prosecution. That apart, the case property was not produced before the Court, which had rendered the prosecution version debatable. The petitioner and other accused persons were given the benefit of doubt.

4. It is a settled principle of law that mere acquittal of an accused does not take away the power of the authority concerned to conduct or continue the departmental inquiry. Further, the nature of evidence in a criminal trial is entirely different from that in departmental proceedings. The standard of proof in the former is that of beyond reasonable doubt. Evidence was led in the departmental proceedings before the Enquiry Officer. He has independently examined the evidence produced before him and had submitted the enquiry report dated 9th December, 2011. The Evidence Act is not applicable to the enquiry proceedings and the findings were recorded by the Enquiry Officer and examined by the disciplinary authority and the appellate authority. The findings are on the principle of preponderance of probability and not on the basis of facts proved beyond reasonable doubt.

5. The contention of the petitioner that this is a case of no evidence or perverse decision cannot be accepted. Facts on record as proved and as held in the enquiry report reveal that one Maruti car and a truck with fake number plates were recovered from one Ishwar Singh and Taj Ram in Bahadurgarh, Haryana. During interrogation, Ishwar Singh and Taj Ram had disclosed and revealed the name of the petitioner i.e. Head Constable Raj Singh as their accomplice. They also stated that they had misappropriated the aforesaid two vehicles and seven other vehicles with the help of the petitioner, who was posted as Malkhana Muharar at Police Station, Paschim Vihar. Factually, this was found to be correct. These vehicles had been deposited in the Malkhana at Police Station Paschim Vihar, where the petitioner was posted as Malkhana Muharar. The petitioner, it is apparent, had also made a disclosure statement.

6. The contention of the petitioner that the Assistant Commissioner of Police had signed the files is based only on one fact and ignores the finding in the enquiry report that the aforesaid vehicles in the Malkhana had been released on applications being submitted by one and the same person using almost identical language. The photograph on all the applications belonged to the same person, who had submitted a copy of a fake ration card as proof of residence with the applications. The registered owners of the vehicles, when contacted, had stated that their vehicles were not stolen or the said person was not found to be residing at the given address. In other words, the

registered owners had not moved any application for release of their vehicles on *superdari*.

7. The other contention raised by the petitioner that at best, the petitioner can be implicated only for the release of scooter number DL-4S-R 1813 and not six other vehicles, is misconceived. With regard to the release of the scooter, there was evidence of the petitioners' involvement because he had signed and prepared the papers. With regard to other six vehicles, there was evidence in the form of the statements of accused Ishwar Singh and Taj Ram, who had revealed the entire modus operandi and had also implicated the present petitioner, Head Constable Raj Singh. The criminal case and the facts on record reveal that the petitioner was indeed the Malkhana In-Charge of Police Station, Paschim Vihar and the vehicles had been released by him on the basis of *superdarinama* submitted in the police station.

8. In these circumstances, we are of the opinion that the present case is not one of no evidence or perverse decision. No other contention or argument has been raised. The writ petition has no merit is accordingly dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

SEPTEMBER 27, 2016
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