

HIGH COURT OF CHHATTISGARH, BILASPUR
WP No.4490 of 2006

D.S. Sondhi, Aged about 55 years, S/o Shri Govind Singh Sodhi,
 Manager at Punjab & Sind Bank, service branch, Kalba Devi Mumbai
 (Maharashtra)

---- Petitioner

Versus

- 1.** General Manager (Personnel), Punjab & Sind Bank, Bank House, 21 Rajendra Place New Delhi 110009
- 2.** Deputy General Manager (Personnel), Punjab & Sind Bank, Bank House, 21 Rajendra Place New Delhi 110009
- 3.** Executive Director, Punjab & Sind Bank, Bank House, 21 Rajendra Place New Delhi 110009

---- Respondents

For Petitioner	:	Mr.Rajeev Bharat, Advocate
For Respondents	:	Mr.Anand Shukla, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

28/11/2017

- 1.** The petitioner has called in question order dated 17.8.2005 (Annexure P/2) by which the review petition filed by him has been rejected by the respondent-Bank.
- 2.** The petitioner was subjected to departmental enquiry by serving a charge-sheet and after completion of enquiry by order dated 23.5.1992 (Annexure P/7) penalty of dismissal was inflicted upon him by the disciplinary authority, against which, he preferred appeal on 30.3.1993. The appellate authority passed an order of reinstatement of the petitioner at the lowest stage in JMGS-I with immediate effect, which the petitioner has accepted, but thereafter he has filed the review petition. The revision petition was dismissed on

17.3.1994. Thereafter the petitioner was acquitted from the charge of Section 409 of the IPC by competent jurisdiction Court on 30.3.2005 and after acquittal he filed a representation for reinstatement on the original post with all consequential benefits, which was rejected by the respondent-Bank by the impugned order.

- 3.** Learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law as upon his acquittal from criminal charges by the jurisdictional criminal Court he is entitled for reinstatement on the original post of service with all consequential benefits.
- 4.** On the other hand, learned counsel for the respondents would support the impugned order.
- 5.** I have heard learned counsel for the parties, considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
- 6.** From perusal of the documents, it appears that the disciplinary authority inflicted punishment of penalty of dismissal from service. However, the appellate authority directed for reinstatement at the lowest stage in JMGS-I with immediate effect. First review petition filed by the petitioner was dismissed on 17.3.1994 and upon his acquittal from criminal charges, second review petition was filed, which was also dismissed by the impugned order.
- 7.** It is well settled law that mere acquittal of an employee by the

criminal Court has no impact on the disciplinary proceedings initiated by the disciplinary authority unless there is a provision in the Service Rules for reinstatement on account of acquittal.

8. In Deputy Inspector General of Police and another Vs.

S. Samuthiram¹, Their Lordships of the Supreme Court have held that in absence of any provision in the Service Rules for reinstatement, no right conferred on the employee to claim any service benefits. It was observed as under:-

“26. As we have already indicated, in the absence of any provision in the service rule for reinstatement, if an employee is honourably acquitted by a Criminal Court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.

1 (2013) 1 SCC 598

27. We have also come across cases where the service rules provide that on registration of a criminal case, an employee can be kept under suspension and on acquittal by the criminal court, he be reinstated. In such cases, the reinstatement is automatic. There may be cases where the service rules provide in spite of domestic enquiry, if the criminal court acquits an employee honourably, he could be reinstated. In other words, the issue whether an employee has to be reinstated in service or not depends upon the question whether the service rules contain any such provision for reinstatement and not as a matter of right. Such provisions are absent in the Tamil Nadu Service Rules.”

9. Recently, above stated principles have been followed and reiterated by Their Lordships of the Supreme Court in **State of West Bengal and others Vs. Sankar Ghosh**² and observed as follows:-

“18.We indicate that the respondent could not lay his hand to any rule or regulation applicable to the Police Force stating that once an employee has been acquitted by a Criminal Court, as a matter of right, he should be reinstated in service, despite all the disciplinary proceedings. In otherwise there is no rule of automatic reinstatement on acquittal by a Criminal Court even though the charges levelled against the delinquent before the Enquiry Officer as well as the Criminal Court are the same.....”

10. In **Divisional Controller, Karnataka State Road Transport Corporation Vs. M.G. Vittal Rao**³, it has been held by Their Lordships of the Supreme Court that question of considering reinstatement after decision of acquittal or discharge by a competent criminal court arises only if dismissal from services was based on conviction by criminal court in view of provisions of Article 311(2) second proviso (a)

² (2014) 3 SCC 610

³ (2012) 1 SCC 442

of Constitution. In case where enquiry is independent of criminal proceedings, acquittal in a criminal court is of no help and that even if a person stands acquitted by a criminal court, domestic enquiry can be held, since standard of proof required in a domestic enquiry and that in a criminal case are different.

11. In the light of principle of law enunciated by the Supreme Court in the above-stated judgments (*supra*), if the facts of the present case are examined, it would appear that the appellate authority allowed the appeal filed by the petitioner and he was reinstated in service, which he has accepted and upon acquittal from charge of Section 409 of the IPC, which is based on insufficient evidence, the petitioner has filed second review petition. Admittedly, there is no provision in the Punjab & Sind Bank Officer Employees' (Discipline & Appeal) Regulations, 1981 (hereinafter called as 'the Regulations of 1981') that on acquittal from criminal charges the employee is entitled for reinstatement on the original post of service with all consequential benefits. Even otherwise, he has already been reinstated on the post of Junior Manager, which he has accepted and now he has been retired from service.

12. In absence of any provision in the Regulations 1981, the petitioner is not entitled for reinstatement on the original post of service with all consequential benefits upon his acquittal from criminal charges.

13. I do not find any merit in the writ petition. Accordingly, the writ petition is dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-