

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.3800 of 2013

Mohan Lal Thakur, S/o Shri Kartik Ram Thakur, aged about 45 years,  
R/o Village Ghughsidih, Post Khopli, Police Station Utai, Tahsil,  
Revenue and Civil District Durg (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Home Department, Mahanadi Mantralaya, New Raipur, District Raipur (C.G.)
2. Director General of Police, Raipur, District Raipur (C.G.)
3. The Inspector General of Police, Durg Range, Durg, District Durg (C.G.)
4. The Superintendent of Police, Durg, District Durg (C.G.)
5. Sub Divisional Officer (Police) Shri Vijay Katre, posted as SDOP Balod at the time of inquiry and at present it is posted as a SDOP at Dhamtari.
6. City Superintendent of Police, Rajhara, Shri V.D. Pahare, posted as a CSP Rajhara, District Balod, Revenue District Balod, Civil District Durg (C.G.)

---- Respondents

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For Petitioner: Mr. B.P. Singh, Advocate.

For Respondents No.1 to 4/State: -

Mr. B. Gopa Kumar, Deputy Advocate General.

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Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/01/2018

1. The petitioner was working as Head Constable. He was subjected to departmental proceeding and he was compulsorily retired by order dated 21-9-2012. He preferred appeal before the Inspector General of Police and his appeal was dismissed by the Inspector General of Police on 13-12-2012. Criminal case was also registered against the petitioner for offence punishable under Sections 292 of the IPC and

Section 67 of the Information Technology Act and he has been acquitted from the criminal charges by the criminal court by judgment dated 19-7-2013. This writ petition has been preferred on 11-11-2013.

2. Learned counsel for the petitioner would submit that first charge has been found proved against the petitioner that he remained absent on 28-1-2011 and 20-2-2011 without permission and thereby he violated Regulation 64(3) of the Chhattisgarh Police Regulations. He would further submit that charges on which he was punished departmentally were also same in the criminal proceeding and he has been acquitted in the criminal case. Therefore, by virtue of Regulation 241 of the Chhattisgarh Police Regulations, the petitioner is entitled to be reinstated.
3. Lenard Deputy Advocate General appearing on behalf of the State/ respondents No.1 to 4 would support the impugned orders and would submit that charges in the departmental enquiry and charges in the criminal case were quite different and as such, acquittal of the petitioner has no bearing upon the punishment already inflicted upon the petitioner, therefore, the writ petition deserves to be dismissed.
4. I have heard learned counsel for the parties and considered the rival submissions made herein-above.
5. Regulation 241 of the Chhattisgarh Police Regulations, which applies to the petitioner, states as under: -

**“241. Cases of acquittal** When a police officer has been tried and acquitted by a criminal court, he must as a rule be reinstated. He may not be punished departmentally when the offence for which he was tried constitutes the sole ground of punishment. If, however the acquittal,

whether in the court of original jurisdiction or of appeal was based on technical grounds. Or if the facts established at the trial show that his retention in Government service is undesirable, the Superintendent may take departmental cognizance of his conduct, after obtaining the sanction of the Inspector-General.”

6. A careful perusal of the above-quoted regulation would show that in case a police officer is tried and acquitted by a criminal court, he must be reinstated as a rule. If acquittal was based on technical grounds or if the facts established at the trial show that his retention in Government service is undesirable, the Superintendent may take departmental cognizance of his conduct after obtaining sanction of the Inspector-General.
7. It appears from the record that the petitioner's case is pending before the Superintendent of Police after acquittal of the petitioner from criminal charges by the competent criminal court and the Superintendent of Police has not considered the case of the petitioner in light of the provisions contained in Regulation 241 of the Chhattisgarh Police Regulations.
8. In view of the above, the matter is remitted to the Superintendent of Police to consider the case of the petitioner in light of Regulation 241 of the Chhattisgarh Police Regulations without being prejudiced by the earlier order passed compulsorily retiring the petitioner and the order confirming him by the Inspector-General of Police.
9. At this stage, learned counsel for the petitioner submits that case of the petitioner is covered by a decision rendered by this Court in M.C.C.(S) No.34/2005 {Pohari Sharan Pandey v. The State of M.P. (Now C.G.) and another}, decided on 24-7-2007.

10. The petitioner is at liberty rely upon the decision of this Court in Pohari Sharan Pandey (supra) before the Superintendent of Police and the Superintendent of Police will also consider the said case while passing order under Rule 241 of the Chhattisgarh Police Regulations.
11. Learned counsel for the petitioner also submits that pension and other dues are also not paid to the petitioner. The Superintendent of Police to consider and disburse the same in accordance with law after production of a copy of this order along with representation, if any.
12. The petitioner shall be heard and order shall be passed within one month from the date of receipt of a copy of this order.
13. Depending upon the result of his case, the petitioner is at liberty to proceed in accordance with law.
14. With the aforesaid observation and direction, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-  
(Sanjay K. Agrawal)  
Judge