

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.14641 of 2012 (O&M)

Date of decision: 14.03.2018

Satwant Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. P.P.S. Brar, Advocate for the petitioner(s).

Mr. Amit Mehta, Sr. DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner(s) seek(s) issuance of a writ in the nature of certiorari for quashing the impugned order dated 07.05.2012 (Annexure P-5) passed by respondent No.2, order dated 09.11.2011 (Annexure P-4) passed by respondent No.3 and further for modification of order dated 05.05.2009 (Annexure P-2), passed by respondent No.4.

It is contended that the petitioner, a Constable in Punjab Police had been falsely implicated in FIR No.524 dated 18.10.2006 (Annexure P-3) registered under Sections 399, 402, 212, 216 of IPC and Section 25 of Arms Act, at Police Station Kotwali, Bathinda. On account of said criminal case, a departmental enquiry was initiated against the petitioner; the petitioner was found guilty and he was dismissed from service during the pendency of trial, vide order dated 18.02.2009

(Annexure P-1). The petitioner had also filed an appeal against the dismissal order whereby respondent No.5 after considering all aspects of the matter, reinstated the petitioner by imposing punishment of forfeiture of five years of regular service and after treating the period from dismissal till reinstatement as duty period without any salary, by virtue of order dated 05.05.2009 (Annexure P-2). After the reinstatement of petitioner, he was acquitted in FIR No.524 dated 18.10.2006, therefore, learned counsel argued that since the petitioner has already been acquitted due to which a punishment of forfeiture of five years of regular service was imposed and therefore, the petitioner ought to have been reinstated with continuity of service with all consequential benefits.

On the other hand, learned State counsel states that competent authority has already taken a lenient view against the petitioner resulting into reinstatement of the petitioner, therefore, the present petition is liable to be dismissed.

Heard, learned counsel for the parties and perused the record.

In the present case, the petitioner is aggrieved against the punishment of forfeiture of five years of regular service imposed by the competent authority pursuant to the departmental enquiry on account of FIR No.524 dated 18.10.2006 registered against the petitioner wherein subsequently, the petitioner was acquitted of the charges by the competent Court, vide judgment of acquittal dated 10.03.2011 (Annexure P-3). During the raid petitioner was arrested along with co-accused Amrish Rana, Gurjant Singh whereas, other accused Harjinder Singh and

Kuldip Singh escaped from the spot, the house of the petitioner. The petitioner was found guilty of helping co-accused Gurjant Singh, who was involved in bank dacoities, looting, snatches and murders in the State of Punjab, Haryana, Chandigarh, Himachal Pradesh, Delhi etc. and gave shelter in his house while they were armed with weapons after absconding from the custody of the Himachal Pradesh Police. There is nothing on record to suggest that the officials of department were inimical towards the petitioner and he was falsely implicated in the above said FIR, though acquitted subsequently.

In **Union Territory, Chandigarh Administration and others Vs. Pradeep Kumar and another**, in Civil Appeal No.67 of 2018, decided on 08.01.2018, it has been observed as under:-

“13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of this Court in Mehar Singh and Parvez Khan cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The Screening Committee also must be alive to the importance of the trust repose in it and must examine the candidate with utmost character.

15. From the above details, we find that the Screening Committee examined each and every case of the respondents and reasonings for their acquittal and taken the decision. While deciding whether a person involved in a criminal case has been acquitted or discharged should be appointed to a post in a police force, nature of offence in which he is involved, whether it was an honourable acquittal or only an extension of benefit of doubt because of witnesses turned hostile and flaws in the prosecution are all the aspects to be considered by the Screening Committee for taking the decision whether the candidate is suitable for the post. As pointed out earlier, the Screening Committee examined each and every case and

reasonings for their acquittal and took decision that the respondents are not suitable for the post of Constable in Chandigarh Police. The procedure followed is as per guideline 2(A)(b) and object of such screening is to ensure that only persons with impeccable character enters police force. While so, the court cannot substitute its views for the decision of the Screening Committee.”

Though, the petitioner has been acquitted in FIR No.524 dated 18.10.2006, however, the competent authority has found him guilty of the charge. In **State Bank of India and others Vs. Neelam Nag and another**, (2016) 9 SCC 491, Hon'ble the Supreme Court has held as under:-

“There is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously. However, no straightjacket formula can be spelt out and the Court has to keep in mind the broad approach to be adopted in such matters on case to case basis. In the peculiar facts of the case, the pendency of the criminal case against the respondent cannot be the sole basis to suspend the disciplinary proceedings initiated against the respondent for an indefinite period.”

Further in **State of Rajasthan Vs. B.K. Meena and others**, (1996) 6 SCC 417, Hon'ble the apex Court observed as under:-

“The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is whether offences registered against him under the Prevention of Corruption Act (and the Indian Penal Code, if any) are established and, if established, what sentence should be imposed

upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different.

Therefore, it must be held that the Tribunal was in error in staying the disciplinary proceedings pending the criminal proceedings against the respondent.”

In view of the above, no fault can be found in the impugned order dated 07.05.2012 (Annexure P-5), order dated 09.11.2011 (Annexure P-4) and order dated 05.05.2009 (Annexure P-2).

Accordingly, finding no merit in the instant petition, the same is hereby dismissed.

14.03.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No