

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 20.02.2018****CWP No.19665 of 2015**

Ravinder Pal

...Petitioner

Vs.

The State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhimanyu Singh, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J.

S. Bhaskar Reddy & another Vs. Superintendent of Police & another, [Civil Appeal No.10592 of 2014 decided on 28.11.2014] is a decision flagged at honourable acquittal of a criminal charge. The appellant was tried on the charge of murder and other offences punishable under the Indian Penal Code and the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The substratum of the criminal charge and the departmental proceedings was more or less the same. The Supreme Court noticed and applied the past law in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & another, (1999) 3 SCC 679; G.M.Tank Vs. State of Gujarat & others, (2006) 5 SCC 446 and Deputy Inspector General of Police & Another Vs. S. Samuthiram, (2013) 1 SCC 598 on the import of the court coined expression 'honourable acquittal' in criminal cases. In the matter of grant of relief, the Supreme Court in *S. Bhaskar Reddy's* case set aside the orders of dismissal, but denied reinstatement and instead treated the

appellants as having compulsorily retired from service from the date of judgment of acquittal.

In the present case, the petitioner was dismissed after 13 years of service. He had not by then put in the requisite period as qualifying service for pension as required by service rules to consider his case for compulsory retirement. Twenty years of service is required for entitlement for pension.

Briefly stated the facts are that the petitioner joined service as a Driver in Haryana Roadways on 04.08.1998 and was dismissed on 09.11.2011. While in service, the petitioner had caused two devastating accidents on 26.02.2006 and 04.10.2011. In the first accident, 14 persons died of fatal injuries sustained in the collision of motor vehicles and 26 persons received injuries, whereas in the second accident, 1 person died and 1 person received injuries. Due to these acts of the petitioner, the State had to suffer financial loss, when it had to pay huge compensation in MACT claim petitions brought by the claimants of the deceased and the injured passengers. His appeal dated 23.11.2011 filed shortly after the dismissal on 09.11.2011 was kept pending on account of pendency of criminal trial. The petitioner has been acquitted by the trial Courts in the two criminal cases on 04.02.2014 and 19.12.2014. After these orders were passed, the Joint Transport Commissioner, Haryana, Chandigarh took up the appeal for consideration; heard the petitioner and dismissed the same vide order dated 20.02.2015. It was not found proper to modify the orders of dismissal dated 09.11.2011.

Notwithstanding the criminal trials, the petitioner was subjected to departmental enquiry under charge sheet dated 01.05.2006 under Rule 7

of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. The petitioner did not file reply to the charge sheet. In the enquiry that followed leading to the report, the charge of negligence was proven. The Joint Transport Commissioner, Haryana, Chandigarh in his order dated 20.02.2015 noticed the conclusion arrived at by the General Manager, Haryana Roadways, Bhiwani in the order of dismissal that it would not be either in public interest or in the interest of the Department to retain a negligent official in service, who had admittedly caused two fatal accidents causing not only the loss of lives, loss of property but also loss to the State exchequer on account of payment of compensation and repair of buses.

Against the order of the Appellate Authority, the petitioner preferred a second appeal before the Secretary, Transport Department, Haryana, Chandigarh.

On 16.09.2015, when this matter came up for hearing, the petitioner took time to apprise the Court of the provision of law/instructions under which he had preferred second appeal/revision before the 1st respondent. On the adjourned date, the counsel for the petitioner made a statement that there is no provision in the rules under which the petitioner could have preferred the second appeal/revision. Accordingly, the State Government represented by the Secretary, Transport Department, Haryana was not obliged to decide the non-statutory appeal.

The result of Criminal Case No.320 of 2006 pertaining to FIR No.122 dated 26.02.2006 registered under Sections 279, 337, 338 & 304-A IPC at Police Station City, Rohtak is contained in the judgment of the Judicial Magistrate Ist Class, Rohtak. The acquittal came for the reasons that the Investigating Officer was not examined and it was only the injured

Savitri Devi and one ASI Khazan Singh, who supported the case of the prosecution, but the remaining injured eye witnesses produced by the prosecution miserably failed to support the case to connect the accused (petitioner) with the commission of offence. It was, in these circumstances, the trial court vide judgment and order dated 04.02.2014 granted benefit of doubt to the accused and acquitted him of the charges framed against him. The petitioner's bail bonds and surety bonds were extended for a further period of six months and in case no appeal is preferred after lapse of six months, the same shall stand discharged. It was not a clean acquittal by court. Thus, it cannot be said that the acquittal of the petitioner was honourable justifying reinstatement. This is without going into the merits of the second trial, which led to clear acquittal.

It is fairly well-settled in law that mere acquittal does not entitle an employee to automatic reinstatement in service. The acquittal has to be honourable. This is an element attached to service law, as expressions such as 'honourable acquittal', 'acquitted of blame', 'fully exonerated', are unknown to the Code of Criminal Procedure or the Penal Code. These are expressions governed by judicial pronouncements, as observed by the Supreme Court in *S. Samuthiram*. The effect of acquittal by benefit of doubt in service matters has special place is explained by the Supreme Court in Commissioner of Police Vs. Mehar Singh, (2013) 7 SCC 685 and State of West Bengal Vs. Sankar Ghosh, (2014) 3 SCC 610 etc.

In the present case, the dismissal was based on departmental enquiry concluded before the acquittal of the criminal charge. Different standards of proof are required in the two proceedings.

On a conspectus of the totality of the facts and circumstances, and the contentions raised by the petitioner I do not think that this is a fit case for interference in the order of dismissal or to consider converting dismissal to compulsory retirement as argued to bring pension. It would serve no useful purpose to consider this aspect since the petitioner had put in only 13 years of service at the time of dismissal which period is far short of qualifying for service pension.

As a result of the discussion, the instant petition fails and is dismissed.

20.02.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*