

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

CWP No.9280 of 2014 (O&M)

Date of decision: 01.10.2018

Ranbir Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.K. Bhandari, Advocate for the petitioner(s).

Ms. Sunint Kaur, AAG, Punjab.

None for respondent Nos.4 to 9.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks directions to the respondents to reinstate the petitioner into service as SPO on account of his acquittal in FIR No.52 dated 20.10.2004, vide judgment of acquittal dated 02.01.2013 (Annexure P-7) along with all consequential benefits from the date of acquittal.

The petitioner was appointed as Special Officer on 25.08.1993. He had also qualified being enlisted as Constable vide order dated 01.09.2003. He along with one lady Inspector Tripta Sood have been implicated in FIR No.52 dated 20.10.2004, registered under Sections 7, 12, 13(2) of the Prevention of Corruption Act due to which the petitioner was removed from the post of SPO vide order dated 20.10.2004 (Annexure P-2).

Learned counsel for the petitioner submits that after the acquittal of the petitioner, he was not reinstated into service. Learned counsel refers to the instructions dated 14.05.2008 (Annexure P-4) issued by respondent No.2 wherein it has been stated that where a person is acquitted in a criminal case, he is entitled to be reinstated back into service, however, despite the instructions, the respondents have not considered the request of the petitioner. Hence the present writ petition.

On the other hand, learned State counsel has argued that the petitioner was appointed as SPO in District Patiala on daily wages on 25.08.1994 in terms of Section 17 of the Police Act, 1961. During his tenure, his work and conduct was not satisfactory and he remained absent on duty 5/6 times, therefore, he was dismissed from service on 18.04.1995. However, on his request, he was again reinstated into service on 25.05.1995. Thereafter, on account of registration of FIR No.52 dated 20.10.2004, he was again removed from service on 29.10.2004, though he was acquitted in aforementioned FIR on 02.01.2013 but she states that the acquittal was not honourable. She further states that after the acquittal, the petitioner filed an appeal before Deputy Inspector General of Police, Patiala Range, Patiala for reinstatement, however, the same was rightly dismissed, by virtue of order 11.05.2015. In support of her contentions, learned State counsel cites Ajay Kumar Singh Vs. The Flag Officer Commanding-In-Chief and others, 2016(3) SCT 794.

I have heard learned counsel for the parties and perused the record.

As per record, the petitioner joined as SPO on 25.08.1993 was removed from service on account of registration of above said FIR, wherein he has earned acquittal, vide judgment dated 02.01.2013 (Annexure P-7). He was also ordered to be absorbed as Constable vide order dated 18.02.2010 (Annexure P-5), however, on account of FIR, the order could not be given effect to. The petitioner is claiming reinstatement in view of the instructions dated 14.05.2008 (Annexure P-4) issued by the Director General of Police, Punjab which reads as under:-

“2. The case has been examined in this office in respect of those SPOs against whom criminal cases (s) were registered and they were discharged from service. Some of them have been acquitted. Clarification has been sought from time to time whether they are to be taken back in service or otherwise.

3. After thorough consideration, it has been decided that as a policy, as far as this issue is concerned SPOs should be treated at par with Punjab Police personnel. Therefore, those SPOs who were earlier discharged due to registration of criminal cases against them but subsequently either discharged or acquitted by the Courts may be taken back as SPOs or be enlisted as constable (in the case of eligible SPOs in list 'A') as the case may be. Fresh verification of antecedents may be carried out before taking them back. They should be discharged, if they come to adverse notice.”

Admittedly, the State has not assailed the judgment of acquittal; co-accused Tripta Sood has been reinstated into service.

In **Lakshmi Narain Vs. State of Haryana and another**, 2017(1) SCT 756, this Court observed as under:-

“A question would arise as to whether acquittal of the petitioner would be seen as an “honourable acquittal” or an acquittal on technical grounds having been given benefit of doubt

so as to deny him reinstatement on the post of Accounts Assistant? A Division Bench of this Court in **Bhag Singh Versus Punjab and Sindh Bank, 2006 (1) SCT 175** interpreted the term “**benefit of doubt in criminal proceedings**”. It was noticed that where the acquittal is for want of any evidence to prove the criminal charge, mere mention of “**benefit of doubt**” by the Criminal Court is superfluous and baseless. The Court, as such termed such acquittal as an “**honourable acquittal**”.

In **Shashi Kumar Versus Uttar Haryana Bijli Vitran Nigam Limited and another, 2005 (1) RSJ 718**, a Division Bench of this Court was again dealing with the term “**honourable acquittal**”. It was observed that the moment a criminal charge fails in a Court of law, the person would be deemed to be acquitted of the blame.

Adverting back to the facts of the present case, the trial Court has acquitted the petitioner on account of lack of evidence. Once the allegation which was against the petitioner could not be established by evidence, it cannot be said that the acquittal was on some technical grounds. Acquittal in a criminal case for want of evidence is an acquittal on merit. There is no provision for “**honourable acquittal**” in criminal trial as per criminal jurisprudence. Petitioner, as such, cannot be denied his right of reinstatement to the post of Accounts Assistant.

The claim of the petitioner seeking reinstatement to the post in question would also be covered in his favour in the light of a judgment of the Apex Court in **Joginder Singh Versus Union Territory of Chandigarh and others, 2015 (1) SCT 87**. The facts in **Joginder Singh's case (supra)** were that appellant Joginder Singh had applied for the post of Constable in pursuance to an advertisement issued by the Union Territory of Chandigarh. In the selection process, he was declared as a successful candidate. However, on verification of his antecedents, it was found that he was involved in case FIR No.200 dated 14.04.1998, under Sections 148, 149, 323, 325, 307 of Indian Penal Code, registered at Police Station Sadar Bhiwani. Joginder Singh faced trial but

*was acquitted vide judgment dated 04.10.1999 passed by the Additional Sessions Judge, Bhiwani. Joginder Singh having been denied appointment in spite of due selection filed Original Application before the Central Administrative Tribunal, Chandigarh, whereby order dated 12.03.2003 was passed directing the respondents to appoint him to the post of Constable. Aggrieved by the order of CAT Chandigarh, the respondent – Union Territory, Chandigarh filed Civil Writ Petition before this Court and vide judgment dated 24.03.2008, the order of CAT was set aside. This Court while setting aside the order of CAT had even placed reliance on the case of **Delhi Administration's case (supra)**. The matter having been taken up to the Hon'ble Supreme Court, it was argued on behalf of Union Territory, Chandigarh that Joginder Singh was not honourably acquitted of the offence as the eye witnesses of the occurrence had declined to support the prosecution version and were declared hostile by the Sessions Judge and as a consequence of which judgment of acquittal had been rendered. It was contended that the same cannot be construed as acquittal of the appellant on merits.*

While rejecting the contention of respondent-Union Territory, Chandigarh and setting aside the judgment and order passed by this Court, the Hon'ble Supreme Court observed as follows:

“Prosecution has failed to prove the charges against the appellant by adducing cogent evidence, therefore, the police authorities cannot be allowed to sit in judgment over the findings recorded by the Sessions Court in its judgment, wherein the appellant has been honourably acquitted. Denying him the appointment to the post of a Constable is like a vicarious punishment, which is not permissible in law, therefore, the impugned judgment and order passed by the High Court is vitiated in law and liable to be set aside.”

In the considered view of this Court, the case of the present petitioner is on a better footing. It is not a case where joining on a post in pursuance to an offer of appointment had been kept in abeyance. Rather, the petitioner in pursuance to the letter of appointment dated 20.12.2007 had submitted his joining report on

01.01.2008 and had been working on such post till 12.08.2008. Since the very basis of dispensing with the services has become non-existent by virtue of his acquittal in the criminal case, he cannot be denied the relief of reinstatement.

*Even the judgment in **Delhi Administration's case (supra)** would have no applicability to the facts of the present case as in that case there was a concealment of being involved in criminal proceeding whereas in the present case, there is no concealment whatsoever as on the date of submission of application for the post by the petitioner the FIR had not even been registered.*

For the reasons recorded above, the present petition is allowed. Impugned orders dated 12.08.2008 (Annexure P-3) and 11.12.2014 (Annexure P-10) are set aside. Respondent authorities are directed to reinstate the petitioner on the post of Accounts Assistant within a period of 30 days from the date of receipt of a certified copy of this order. Petitioner is also held entitled to all consequential benefits except actual arrears of salary for the period in question.

Petition is allowed in the aforesaid terms."

The ratio of law laid down in Ajay Kumar Singh's case (supra) is distinguishable on facts of the present case.

Keeping in view the above, the present petition is allowed. Consequently, the respondents are directed to reinstate the petitioner into service with consequential benefits except for the period he remained out of service keeping in view the observations of Hon'ble the Supreme Court in **Union of India Vs. Jaipal Singh** (2004) 1 SCC 121 and **Lakshmi Narain's** case (supra). The needful be done within a period of three months from the date of receipt of certified copy of the order.

01.10.2018

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(JITENDRA CHAUHAN)
JUDGE

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