

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: May 25, 2018

+ **W.P.(C) 5660/2018 & CM No. 22060/2018**

BIJENDER SINGH

.....Petitioner

Through: Mr. Sarvam Ritam Khare and Ms.
Meena Sehrawat, Advocates

versus

**STATE BANK OF INDIA THROUGH ITS
CHAIRMAN AND MANAGING DIRECTOR**

.....Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 19th April, 2018 (Annexure P-10) rejects petitioner's Representation seeking reinstatement in service. Petitioner has filed Representation of 23rd February, 2018 on the basis of acquittal in the criminal case although, the penalty of removal from service inflicted upon petitioner had attained finality.
2. Petitioner was working as Clerk-cum-Cashier in the respondent-Bank and the allegations against him were of opening a fictitious bank account in the name of one Dharmender Kumar in May, 1996 and of fraudulently obtaining introduction from one Chhotu Giri to open the said account and of dishonestly withdrawing a sum of ₹5,000/- from the Bank account of said Dharmender Kumar and of manipulating amount of

₹4,57,970/- and of preparing demand draft of ₹3,58,750/- to defraud the Bank.

3. According to petitioner's counsel, this demand draft was not encashed and the nature of charge in the criminal proceedings as well as the departmental proceedings was identical and in view of the acquittal in the criminal proceedings, the penalty of removal from service ought to be set aside and petitioner be reinstated.
4. Upon hearing and on perusal of impugned order (Annexure P-10), the material on record, I find that the *doctrine of double jeopardy* cannot be invoked in the instant case as Supreme Court in *Union of India and Another vs. Purushottam* (2015) 3 SCC 779 has reiterated that acquittal of an employee by a criminal Court would not automatically and conclusively impact departmental proceedings.
5. In the instant case, although the deposition of V. K. Gupta is common in departmental as well as criminal proceedings, but in addition, there is evidence of Vijay Pal Tyagi in the departmental proceedings which justifies the penalty inflicted upon petitioner. Otherwise also, the penalty inflicted upon petitioner was challenged and vide impugned order (Annexures P-1, P-4 and P-5), the penalty awarded stands confirmed. In such a situation, acquittal of petitioner by criminal Court cannot be made the basis to set aside the penalty (which has attained finality) as the degree of proof required in criminal proceedings is of beyond reasonable doubt whereas in departmental proceedings, the charge needs to be proved by *preponderance of probability*.

6. In the light of the aforesaid, I find no infirmity in the impugned order.
7. This petition and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

MAY 25, 2018
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