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

% **Date of Decision: 12.07.2019**

+ **LPA 444/2019**

JAGJEEVAN @ JAGE RAM

..... Appellant

Through: Mr. Rajinder Nischal and Mr. Asish
Nischal, Advocates.

versus

AIRPORT AUTHORITY OF INDIA

..... Respondent

Through: Mr. Dig Vijay Rai and Ms. Chetna
Rai, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

G.S. SISTANI, J. (ORAL)

C.M. Appl. No. 30751/2019 (for exemption)

1. Exemption allowed, subject to all just exceptions.

C.M. stands disposed of.

C.M. Appl. No. 30752/2019 (for delay)

2. This is an application seeking condonation of delay of 2 days in filing the appeal.
3. For the reasons stated in the application, the application is allowed and the delay is condoned.

C.M. stands disposed of.

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4. The appellant is aggrieved by the decision rendered by a Learned Single Judge of this Court dated 22.4.2019 by which W.P.(C)

No.5356/2011 seeking the following prayers stands rejected:-

- “i. quash and set aside the order dated 24th July, 2012 of the respondent;
- ii. subsequently, Writ of Mandamus may kindly be issued to the respondent to review their order dated 18th April, 2001 in light of the acquittal of the petitioner by the Criminal Court on 13.04.2012;
- iii. pass any other order(s) and this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

5. Some necessary facts which are required to be noticed for the disposal of this appeal at the admission stage itself are, that the appellant joined the respondent/authority as a Safaiwala on regular basis on 6.12.1996. In the year 2001, an FIR was registered against him under Sections 420 and 471 IPC and consequent thereto, the services of the appellant were terminated. On 13.4.2012, the trial court acquitted the appellant, and resultantly, a representation was made to the Department on 30.5.2012, which was rejected, which led to the filing of the writ petition.
6. Learned counsel for the appellant submits that the sole ground for rejection of his representation is that the trial court did not direct reinstatement of the appellant. He submits that this procedure is unknown in criminal jurisprudence and the Criminal Court hearing the matter would have no jurisdiction to pass such an order. It is further pointed out that the only order, the Criminal Court could have passed was either conviction or acquittal, and in this case, the order of acquittal has been passed. Learned counsel submits that the respondent be directed to reconsider the termination order in the light of his acquittal in the criminal case.

7. We have heard learned counsel for the appellant and have examined the judgment of the learned Single Judge. We may note that the order of termination which was passed as far back as on 18.4.2001 has attained finality and the same has been accepted by the appellant. Merely because the appellant stands acquitted by the trial court, it cannot be a ground alone to re-open the case of the appellant. We have also examined the judgment of the Criminal Court. The appellant stands acquitted as the prosecution was unable to prove its case beyond any shadow of doubt. The School Leaving Certificate on which reliance was placed could not be proved as the original School Leaving Certificate and the affidavit of Jage Ram @ Jagjeewan Ram was not produced, nor permission was sought to lead secondary evidence.
8. The appellant was regularised w.e.f. 06.12.1996. On the basis of an FIR registered against him, the respondent had issued a show cause notice to the appellant on the ground that he had deliberately suppressed the information from the respondent that his real name was Jagjeewan Ram and not Jage Ram. The appellant, admittedly, did not even file a reply to the show cause notice and hence his services were terminated on 18.04.2001. We find that the authenticity of the school leaving certificate could not be proved in the criminal trial as the certificate was not produced and similarly, when the respondents referred the matter to the Head Master of the concerned school during its investigation, the Head Master confirmed that the certificate had not been issued in the name of the appellant. The fact of the matter remains that till date, the appellant has failed to establish that his

school leaving certificate was genuine and in the name of Jage Ram under which name he was working with the respondent.

9. The contention of the learned counsel that since the appellant has been acquitted in the criminal case, the respondents should reconsider the termination order. In our view, there is no merit in the said contention since it is settled that mere acquittal in a criminal case cannot be a ground to exonerate an employee in departmental proceedings. In support of this proposition, we quote hereinunder para 22 of the judgment of the Apex Court in the case of ***Management of Bharat heavy Electricals Limited vs. M. Mani (2018) 1 SCC 285***:

“22. This Court has consistently held that in a case where the enquiry has been held independently of the criminal proceedings, acquittal in criminal court is of no avail. It is held that even if a person stood acquitted by the criminal court, domestic enquiry can still be held – the reason being that the standard of proof required in a domestic enquiry and that in criminal case are altogether different. In a criminal case, standard of proof required is beyond reasonable doubt while in a domestic enquiry, it is the preponderance of probabilities.”

10. We are also fortified, in our view, by a judgment of the Division Bench in the case of ***R.K. Solanki vs. Central Bank of India 2018 (4) MPLJ 345*** and we quote hereinunder para 14:

“14. The another ancillary issue is : whether acquittal from criminal case will mechanically absolve/exonerate the petitioners from departmental punishment. In the present case, as noticed, the punishment imposed on the petitioners is not based on the conclusion of the criminal case. It is based on the findings recorded in the departmental inquiry which is based on the depositions of

witnesses in the departmental inquiry. The standard of proof required in the departmental inquiry and in the criminal case are different.....”

11. As already noticed above, the termination order was passed way back in 2001 which was never assailed by the appellant and has attained finality. We, thus, find no infirmity in the judgment of the learned Single Judge who, in our view, has rightly observed that the appellant had failed to establish the genuineness of his school leaving certificate and also that the acquittal was not on merits and even otherwise the acquittal would not necessarily mean that the departmental proceedings have to be quashed.
12. No grounds are made out to entertain the present appeal and the same is hereby dismissed.

G.S.SISTANI, J

JYOTI SINGH, J

JULY 12, 2019

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