

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4004 of 2020

=====

Babu Saheb Kumar Nishad S/o Nand Kishor Mandal R/o Village-
Bhahadurpur, Post and P.S.-Gogri, Dist.-Khagariya PIN-851202.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Home Department,
Government of Bihar, Patna.
2. The Director General of Police-Cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. Police, Shahabad-Range, Dehri-on-Son.
4. The S.P. of Rohtas (Dehri).

... .. Respondents

=====

Appearance :

For the Petitioner : Mr. Ranjit Jha
For the Respondents : Mr. Md.N.H.Khan, S.C.-1
Mr. Irshad Ali, AC to SC-1

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 27-08-2021 This matter has been taken up for hearing *on-line*
because of COVID-19 Pandemic restrictions.

2. On the basis of a selection process conducted by the Central Selection Board, the petitioner was appointed as Constable in the district of Rohtas. With the allegation that by an act of fraud, he had allowed someone else to appear in the written examination, in his own place, the petitioner was issued a show cause notice. The petitioner was placed under suspension. In response to the said charge, the petitioner submitted his written statement of defence. A departmental enquiry was conducted. On the basis of evidence adduced in the departmental enquiry, the enquiring authority submitted his



report recording his finding that the charge against the petitioner stood proved. Agreeing with the finding recorded by the enquiring authority, the disciplinary authority imposed on the petitioner punishment of dismissal from service vide order No. 369/2017 dated 14.02.2017. The petitioner's appeal also came to be dismissed by an order dated 20.09.2017 passed by the Deputy Inspector General of Police, Shahabad.

3. A criminal case was also instituted against the petitioner on the same set of charge. It is petitioner's case that by judgment and order dated 05.11.2019, the petitioner has been acquitted of the charges framed for the offence punishable under Section 419, 420, 120(B) of the Indian Penal Code.

4. In the aforesaid background, the present writ application has been filed seeking direction to the respondents to reinstate the petitioner on the post of Constable in Rohtas District Police as he stood acquitted by the trial Court.

5. Learned counsel appearing on behalf of the petitioner has drawn my attention to an order passed by a coordinate Bench of this Court dated 23.07.2019 in C.W.J.C. No. 16293 of 2014 (*Raj Kishore Choudhary Vs. The State of Bihar and Others*), whereby considering the submission advanced on behalf of the petitioner of that case, the writ



petition was though dismissed, but with a liberty to him to approach respondent No.3 for reconsideration of punishment in view of the law laid down in case of ***M. Paul Anthony v. Bharat Gold Mines Ltd.***, reported in (1999) 3 SCC 679. Reliance has also been placed on another coordinate Bench decision dated 19.02.2019 passed in C.W.J.C. No. 2468 of 2019 (***Shishupal Kumar Vs. The State of Bihar and Others***).

6. It is true that, in the present case, the departmental proceeding and criminal case against the petitioner were initiated for the same set of charge. I have carefully perused the order of the trial Court, from which it transpires that because no evidence was adduced by the prosecution before the trial Court, the trial Court recorded the judgment of acquittal. It is well settled law that standard of proof in a departmental proceeding and criminal trial are entirely different. Whereas, preponderance of probability is standard of proof of charge in a disciplinary proceeding, a criminal charge is required to be established beyond all reasonable doubts. Therefore, on the sole ground petitioner has been acquitted in the criminal case, he cannot, by way of right, claim exoneration from punishment imposed in departmental proceeding. The correctness of the final decision taken in the disciplinary proceeding is to be adjudged on the



basis of materials/evidence available on the records of the disciplinary proceeding.

7. However, the petitioner shall be at liberty to approach the disciplinary authority with a copy of the judgment of acquittal rendered by the trial Court and seek relief by making representation. It will be open for the disciplinary authority to take a decision keeping in mind the legal position as noted hereinabove.

8. This application stands disposed of with the aforesaid observation.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

