

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

CWP-1848-2023

Reserved on : 27.02.2023

Pronounced on : 27.03.2023

Ranjit Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. K.B. Raheja, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

By way of present writ petition, challenge has been raised to order dated 15.04.2015 (Annexure P-2) whereby the petitioner has been awarded punishment of forfeiture of 05 years of increment and the period for which the petitioner remained in judicial lockup has been included in the suspension period and the orders passed subsequent thereto affirming the same.

2. Petitioner was booked in FIR No.3 dated 26.03.2013 registered for offences punishable under Sections 7 and 13(2) of Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Jalandhar. On the said set of allegations, the Department also proceeded against the petitioner by holding regular inquiry. Inquiry was conducted and the petitioner was found guilty. While concurring with the findings recorded by the Inquiry Officer, the Punishing Authority passed impugned order dated 15.04.2015 (Annexure P-2). The trial finally culminated in the judgment of acquittal dated 25.08.2017 which has been placed on record as Annexure P-1.

3. Counsel for the petitioner while attacking the impugned orders argues that once the petitioner has been awarded acquittal by the Court in trial, suspension period of the petitioner during the pendency of the case should be deemed to be on duty for all intents and purposes and the punishment awarded in departmental proceedings also cannot be sustained. Reliance is being placed upon '*Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. 1999(3) SCC 679, G.M. Tank vs. State of Gujarat and another 2006(5) SCC 446, Shiv Kumar Goel vs. State of Haryana and another 2007(1) SCT 739, Punjab State through its Collector and another vs. Ex. Constable Gulzar Singh 2012(3) SCT 579, CWP No.19009 of 2017, titled as MC Mohd. Hussain vs. State of Haryana and others, CWP No.7794 of 2018 titled as Ex. HC (GD) Surender Singh vs. Union of India and others and CWP No.15207 of 2014 titled as Vijay Pal and others vs. State of Haryana and others.*'

4. I have heard counsel for the petitioner and have gone through the records of the case.

5. Counsel for the petitioner is not in a position to deny that during the trial, the material witness namely Jinderpal-complainant who appeared as PW-1 was declared hostile as he resiled. Likewise, shadow witness Rajvir Singh, who appeared as PW-2 was also declared hostile. The judgment of acquittal further reads as under:-

“xx xx xx

19. Here, in the present, thus, looking from all the angles, all the three ingredients i.e., demand of illegal gratification; acceptance of illegal gratification; and recovery of illegal gratification have not been proved beyond reasonable doubt.

20. In the light of what is discussed above and

without elaborating further, it is held that the prosecution has not been able to bring home the guilt of the accused at least beyond reasonable doubt. Resultantly, giving benefit of doubt, the accused-ASI Ranjit Singh is ordered to be acquitted of the charge framed against him. The case property, if any, be disposed of under rules, after the expiry of period of appeal or revision, if any. File be consigned to the record room.”

6. The service conditions of the petitioner are governed by Punjab Civil Service Rules. Relevant rule dealing with the action to be taken on a judicial acquittal i.e. Rule 16.3 of the Punjab Police Rules 1934 reads as under:-

“16.3. Action following on a judicial acquittal - (1)

When a Police Officer has been tried and acquitted by a criminal court he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not, unless-

- (a) the criminal charge has failed on technical grounds; or
- (b) in the opinion of the court or of the Superintendent of Police, the prosecution witnesses have been won over; or
- (c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or
- (d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or
- (e) additional evidence admissible under rule

16.25 (1) in departmental proceedings is available.

(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of the Deputy Inspector-General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honourably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.

7. There is no quarrel with the proposition as laid down by this Court in the case of *Vijay Pal and others vs. State of Haryana and others* that when the acquittal is honourable on merits, disciplinary authority cannot go beyond 16.3 Rule.

8. It is also not disputed that the petitioner was proceeded by way of departmental inquiry and has been found to be guilty. Keeping in view that the petitioner has not been acquitted honourably and has been extended benefit of doubt, the acquittal of the petitioner cannot be considered to be an honourable acquittal, more so when the material witnesses have turned hostile.

9. Apex Court while dealing with Rule 16.3 in a similar situation in the case of *Baljinder Pal Kaur vs. State of Punjab reported as (2016) 1 SCC 671* held as under:-

“xx xx xx

9. What is relevant in the present case which distinguishes the case of the appellant from the above mentioned cases is Rule 16.3 of Punjab Police Rules, which reads as under :-

"16.3 Action following on a judicial acquittal16.3

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(a) the criminal charge has failed on technical grounds; or

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(c) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or

(d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence admissible under rule 16.25(1) in departmental proceedings is available."

(2)"

10. Rule quoted above provides that when a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge subject to certain conditions. In the present case, as is evident from Rule 16.3, requirement of not punishing the officer departmentally is not absolute, and it hinges on either of the five conditions mentioned above [(a) to (e)]. From the copy of the order of acquittal passed by the Judge, Special Court, Ludhiana (Annexure P-6), it is evident that the prosecution witnesses have turned hostile, and they appear to have been won over.

11. In *Commissioner of Police, New Delhi and*

another v. Mehar Singh, 2013(4) S.C.T. 311 : (2013) 7 SCC 685 (2013) 7 SCC 685, this Court, in paragraph 24, has observed as under :-

"24.While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit."

12. In ***Deputy Inspector General of Police and another v. S. Samuthiram, 2013(1) S.C.T. 115 : (2013) 1 SCC 598 : (2013) 1 SCC 598***, this Court, in paragraph 26, has held as under :-

"26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps

to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so."

10. In view of law laid down by the Apex Court and considering the judgment awarding acquittal to the petitioner, this Court does not find any infirmity in the orders passed by the respondent-authority impugned in the present writ petition. Resultantly, the present writ petition is dismissed being without merit.

(PANKAJ JAIN)
JUDGE

27.03.2023

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No