

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

LPA -810-2023 (O&M)
Reserved on:02.11.2023
Pronounced on: 08.11.2023

Jasdev Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY**

Present: Mr.GS Bal, Sr. Advocate with
Mr.JS Randhawa, Advocate for the appellant

Ms.Lavanya Paul, DAG, Punjab

AMAN CHAUDHARY, J.

CM-2075-LPA-2023

For the reasons stated in the application, delay of 109 days is hereby
condoned, subject to all just exceptions.

Main appeal

1. Challenge in the present intra-Court appeal, under Clause X of the Letters Patent is to the judgment dated 13.01.2023, vide which, the learned Single Judge dismissed the civil writ petition preferred by the appellant.
2. Learned counsel had contended that the punishment of forfeiture of 3 years of approved service awarded in the disciplinary proceedings ought to have been reconsidered on the basis of the subsequent acquittal in the criminal case registered, but learned Single Judge without properly appreciating the above has dismissed the petition on ground of delay and laches. He relies on the judgment in **G.M. Tank vs. State of Gujarat and Another**, (2006) 5 SCC 446.

3. Contrarily, learned State counsel submits that the appellant is not entitled to any relief on the ground of his having been acquitted. Firstly, he was granted benefit of doubt by the trial Court and was not an honourable acquittal. Secondly, he had himself admitted to the charges framed in the disciplinary proceedings as is discernible from the order dated 25.05.2007. Further still, he had filed an appeal against the same belatedly after 10 years and it rightly did not find favour on merits as well, wherein though he having been afforded an opportunity of hearing several times, but never appeared.

4. Having heard learned counsel on both sides and perused the paper book, we are not persuaded to accept the submissions canvassed on behalf of the appellant and the judgment relied upon is also found to be distinguishable on facts.

5. It may be accentuated that the appellant, a Sub-Inspector in the police, had been issued a charge-sheet in the departmental proceedings initiated against him wherein the gravamen of allegations were that he being an Investigating Officer made forged Road Certificate No.243 with regard to filing of challans in 3 cases in the Court, which eventually he did not present, leading to lodging of an FIR as well under Section 409 IPC. He neither submitted any defence nor appeared in the said departmental proceedings, it was thus construed that he had admitted to the charges and consequently the punishing authority after considering the entire matter, awarded the punishment in question. However, in the criminal trial he was granted benefit of the doubt.

6. It is trite that the finding of the criminal Court resulting in acquittal is not *per se* binding on the departmental proceedings, the latter is naturally based on preponderance of probabilities and not on proof beyond reasonable doubt.

7. In **Union of India vs. Sitaram Mishra** (2019) 20 SCC 588, a case, to which a gainful reference can be made, where accused-respondent was acquitted by the trial Court, subsequent to the finding of his guilt by the Enquiry Officer, thereby dismissing him from the service, Hon'ble The Supreme Court had held that such acquittal in the course of criminal trial cannot operate *ipso facto* as a ground for vitiating the finding of misconduct which has been arrived at during the course of the disciplinary proceedings. It was further held that, "Consequently, the acquittal in the criminal case was not a ground for setting aside the penalty which was imposed in the course of the disciplinary enquiry. Hence, having regard to the parameters that govern the exercise of judicial review in disciplinary matters, we are of the view that the judgment [Sitaram Mishra v. Union of India, 2007 SCC OnLine Cal 718 : (2008) 1 Cal LJ 863] of the Division Bench of the High Court is unsustainable."

8. Following the above dictum in **Maharashtra SRTC vs. Dilip Uttam Jayabhai**, (2022) 2 SCC 696, Hon'ble the Supreme Court observed and held that, "Even from the judgment and order passed by the criminal court it appears that the criminal court acquitted the respondent based on the hostility of the witnesses; the evidence led by the interested witnesses; lacuna in examination of the investigating officer; panch for the spot panchnama of the incident, etc. Therefore, criminal court held that the prosecution has failed to prove the case against the respondent beyond reasonable doubt. On the contrary in the departmental proceedings the misconduct of driving the vehicle rashly and negligently which caused accident and due to which four persons died has been established and proved. As per the cardinal principle of law an acquittal in a criminal trial has no bearing or relevance on the disciplinary proceedings as the standard of proof in both the cases are different and the proceedings operate in different fields and with different objectives..."

9. The facts and circumstances of the case, when viewed in light of the law as explicated, leads this Court to the conclusion that in wake of the acquittal having been received by the appellant from the criminal Court, it was neither incumbent upon nor imperative for the department to have altered or done away with the punishment imposed in the departmental proceedings.
10. As a corollary, the present appeal being sans merit is dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

08.11.2023
gsv/mkk

Whether speaking / reasoned: YES / NO
Whether Reportable: YES / NO