

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

113

LPA-1896-2023 (O&M)
Decided on 30.11.2023

Riyazuddin

... Appellant

Versus

State of Haryana and Others

... Respondents

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

Present: Mr.Mohammad Arshad, Advocate for the appellant

Ms.Shruti Jain Goel, Senior DAG, Haryana

AMAN CHAUDHARY, J.

CM-4761-2022

For the reasons stated in the application, delay of 353 days is hereby
condoned, subject to all just exceptions.

Main Appeal

1. The present Letters Patent Appeal has been filed to challenge the
judgment dated 04.11.2022, vide which, the learned Single Judge has dismissed
the civil writ petition preferred by the appellant.

2. Learned counsel would submit that in the three FIRs, wherein the
appellant was implicated based on disclosure statements, he was acquitted by
giving benefit of doubt in the years 2010 to 2013 and as such, the order of
dismissal from service in the Departmental proceedings on 11.12.2006, was
required to be reconsidered. He should have been reinstated in service, as was the
request made by him on 05.11.2014, which was wrongly rejected. The learned
Single Judge has not properly appreciated the facts of the case only on the ground

that it cannot sit over the decision of competent authority in Departmental proceedings.

3. Opposing the above, the emphatic contention of the learned State counsel is that the recovery of stolen articles had been effected from the appellant based on his disclosure statement and the acquittal by the criminal Court would not come to his aid entitling reinstatement. The impugned judgment rendered was in consonance with the law laid down.

4. Having heard learned counsel for the parties, we find ourselves unable to agree with the stance put forth on behalf of the appellant.

5. It is the cardinal principle of law that an acquittal by a criminal Court has no effect on the disciplinary proceedings initiated against a delinquent employee, the standard of proof and objective being different.

6. The mere factum of basis of involvement of the appellant in the criminal cases being on disclosure statement of co-accused or otherwise would have no bearing whatsoever, particularly in wake of the disciplinary proceedings wherein the enquiry report specifically records that the recovery of stolen articles i.e. one alto car, three stereos and two motorcycles got effected by the appellant himself pursuant to his disclosure statement and the dates on which the thefts were committed, he was absent from duty.

7. Dehors the acquittal of the appellant, he being a part of the disciplined force for six years, the action taken against him by the State, in the departmental proceedings conducted by adopting proper procedure and complying with the principles of natural justice, for the misconduct, which without a doubt was serious, cannot be by any means held to be arbitrary.

8. In the given factual position it would be worthwhile to refer to the judgment in **Union of India vs. Sitaram Mishra** (2019) 20 SCC 588, wherein the

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." Likewise, in a case where, the respondent-defaulter enrolled as Constable in Rajasthan Police was charged under Sections 392, 307 IPC and 34 of Police Act, and dismissed from service, but in appeal against conviction, he was acquitted by giving 'benefit of doubt', on the basis thereof, High Court had ordered his reinstatement, which, when challenged before Hon'ble the Supreme Court in **State of Rajasthan vs. Phool Singh**, 2022 SCC OnLine SC 1140, was set aside by observing that, "There should be no ambiguity in law on this subject. A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of "preponderance of probabilities", in a criminal court the prosecution has to prove its case "beyond reasonable doubt". In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely

because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.”

9. Having considered the facts and circumstances of this case and fortified in our view by the afore-referred judicial pronouncements, clearly elucidating the proposition involved, we find no illegality or perversity in the judgment passed by the learned Single Judge. The present appeal is sans merit and as such dismissed.

10. Pending applications, if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

30.11.2023

gsv/ankur

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO