

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

CWP-12060-2022 (O&M)
Date of Decision: 23.02.2024

Raja Ram

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. A.K. Khunger, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J.

1. The prayer in the present petition is for quashing of the order dated 06.09.2013, whereby punishment of stoppage of two annual increments with cumulative effect had been imposed and order dated 10.01.2020, dismissing the appeal.

2. Learned counsel would contend that the petitioner was acquitted in the criminal case wherein the allegations were the same as that in the Departmental enquiry, but punishment of stoppage of two annual increments with cumulative effect was imposed, which is required to be reconsidered.

3. Learned State counsel submitted that there is no provision to alter the punishment awarded to the appellant upon his having been acquitted, as both proceedings are based on different considerations. Even otherwise, the appellant has not been honourably acquitted, as he was granted benefit of doubt. Thus, prays for dismissal of the appeal.

4. Having heard learned counsel, there is found to be no substance in the arguments canvassed on behalf of the petitioner.

5. Notably, it transpires from the facts that departmental proceedings were initiated against the petitioner, a Warder in Sub Jail, Fazilka, with allegations of being negligent while conducting his duty from 12:00 AM to 03:00 AM hours, as a consequence of which, inmates/undertrials managed to abscond from the Jail. The disciplinary authority after considering the enquiry report awarded the punishment vide order dated 06.09.2013.

6. In the FIR dated 21.04.2011, registered against the petitioner under Sections 223/224/34 IPC, he was convicted by the trial Court on 16.12.2017, however, the Appellate Court acquitted him on 23.05.2019 by giving him benefit of doubt.

7. The petitioner thereafter approached the Department by filing an appeal against the order of punishment, praying therein for reconsideration thereof on the basis of having been acquitted, which the competent authority rejected after hearing him and observed thus:

“8. ...it has been found that your night duty was being Watchman Barracks on 20/21.04.2011 from 12:00 hours to 03:00 hours inside the jail. In the enquiry conducted by Shri Dalbir Singh Teji, District Probation Officer, Ferozepur-cum- Inquiry Officer, the time of absconding being from 02:00 hours to 02:45 hours, you have been found responsible for occurrence of absconding. Besides this, in the enquiry conducted by the Deputy Superintendent of Police, Fazikla, the time of absconding has been contemplated as approximately 02:30 hours.

9. In accordance with the above mentioned situation, during your duty itself, undertrial Nirvair Singh son of Hazara Singh by turning the iron rod of the grill of barrack No.2, by creating crack in the wall of the veranda succeeded in fleeing away from the jail. Therefore, on account of finding guilty in the case by the Superintendent, Head Quarter Jail, Ferozepur vide order No. 45, dated 06.09.2013, the punishment of stoppage of 02 annual increments with cumulative effect is kept continued and the appeal filed by you is hereby consigned.”

8. The issue germane to the present case is no longer *res-integra*. In this context, a reference can be made to **Union of India vs. Sitaram Mishra** (2019) 20 SCC 588, wherein Hon'ble the Supreme Court, considering a case of an accused-respondent having been acquitted by the trial Court after culmination of the proceedings initiated by the Department that resulted in his dismissal, held that the acquittal during the criminal trial does not automatically invalidate the finding of misconduct established during disciplinary proceedings. It was unequivocally 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."

9. 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...”

10. Both proceedings operate in different spheres, being distinct in terms of the standard of proof. The verdict of a criminal court leading to an acquittal does not inherently dictate the outcome of departmental proceedings. The latter is fundamentally determined by the preponderance of probabilities and not by proof beyond reasonable doubt.

11. 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 petitioner from the Appellate Court, it was neither incumbent upon nor imperative for the Department to have altered or done away with the punishment imposed. It is evident from the impugned orders that there was in depth examination of the entire matter, which was rather serious in nature, it being a case of jail break, wherein the petitioner, having been found negligent was rightly awarded the punishment.

12. As a corollary, the present petition being sans merit is dismissed.

(AMAN CHAUDHARY)
JUDGE

23.02.2024
Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No