

LPA-830-2023

2024:PHHC:172562-DB



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

**CM-2114-LPA-2023 in/and
LPA-830-2023**

Date of Decision: December 20, 2024

Ranjit Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPAK GUPTA**

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

Mr. H.S. Deol, Senior DAG, Punjab.

LISA GILL, J.

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1. For the reasons mentioned in the application as well as arguments addressed, delay of 30 days in filing the appeal is condoned.

2. Application is, accordingly, disposed of.

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1. This appeal has been filed for setting aside order dated 27.03.2018 whereby CWP No. 1848 of 2023 filed by appellant (writ petitioner) has been dismissed.

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2. Appellant (writ petitioner) filed abovesaid writ petition for setting aside orders dated 24.07.2020, 01.10.2019, 22.03.2019, 02.07.2018, 10.01.2018 and 15.04.2015. Vide order dated 15.04.2015, service of appellant was 'provisionally seized' for five years and period of judicial lock up from 26.03.2013 to 12.04.2013 and from 12.04.2013 till the grant of bail and coming present at the department i.e. 16.04.2013 was directed to be treated as 'No Duty No Pay' period and 'suspension period from 26.03.2013 to 18.04.2013 included in his suspension period'. Vide subsequent orders, punishment was affirmed.

3. Appellant (writ petitioner) pleaded that he was appointed with respondent – Department as Constable in the year 1981, promoted to the post of Head Constable in 1993 and ASI in the year 2014. He retired from Department as ASI on 31.07.2017. He was involved in FIR No. 3 dated 26.03.2013 under Sections 7, 13(2) of Prevention of Corruption Act. Departmental proceedings were also initiated against appellant, regular inquiry was held and appellant found guilty therein. While concurring with the findings recorded by inquiry Officer, punishing Authority passed order dated 15.04.2015.

4. However, Inspector General of Police, India Reserve Battalions, Patiala vide order dated 02.07.2018, while deciding the revision petition filed by appellant reduced the seizure of service from five years to three years on provisional basis while upholding rest of punishment. Appellant was acquitted in FIR No. 3 dated 26.03.2013 vide judgment dated 25.08.2017 passed by learned Additional Sessions Judge, Jalandhar (Annexure P1). Aggrieved of punishment imposed, writ petition was filed.

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5. Writ petition was dismissed by learned Single Bench while taking note of the fact that acquittal of appellant was caused due to complainant and shadow witness turning hostile. It was noted that appellant had been subjected to departmental inquiry in which he was found guilty and that acquittal of appellant was actuated due to material witnesses turning hostile. It was, thus, concluded that impugned orders dated 24.07.2020, 01.10.2019, 22.03.2019, 02.07.2018, 10.01.2018 and 15.04.2015 had been correctly passed. Reliance was placed upon judgment by Hon'ble the Supreme Court in **Baljinder Pal Kaur vs. State of Punjab (2016) 1 SCC 671**. Aggrieved therefrom, present appeal has been filed.

6. Learned counsel for appellant vehemently argued that learned Single Bench has grossly erred in dismissing the writ petition filed by appellant. Once the appellant was acquitted in criminal proceedings, there was no question of imposition of punishment upon appellant on the same set of facts. Once learned trial Court did not find any merit in the allegations against appellant, the very foundation of departmental proceedings against appellant collapsed, therefore, impugned order dated 27.03.2018 be set aside and writ petition be allowed as prayed for.

7. Learned counsel for State has opposed the appeal while supporting impugned order dated 27.03.2018 passed by learned Single Bench. Learned counsel for State submits that separate Departmental inquiry was duly conducted in this matter, wherein complainant Jatinder Pal Singh as well as shadow witness have duly affirmed the allegations against appellant. Mere acquittal of appellant by learned trial Court in criminal proceedings due to material witnesses turning hostile cannot be a ground for interference in this matter wherein a separate Departmental inquiry was conducted. Moreover,

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vide order dated 02.07.2018, Inspector General of Police, India Reserve Battalions, Punjab has taken a lenient view and even reduced the seizure of service from five years to three years on provisional basis. It is, thus, prayed that this appeal be dismissed.

8. We have heard learned counsel for parties and have gone through file with their able assistance.

9. Admittedly, FIR No. 3 dated 26.03.2013 under Sections 7, 13(2) of Prevention of Corruption Act was registered against appellant while he was in service. Relevant rule regarding action following judicial acquittal i.e. Rule 16.3 of 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
 (emphasis added)

(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-

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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.”

10. Departmental inquiry was duly conducted in this matter wherein complainant as well as shadow witness have affirmed and verified allegations as raised against appellant, therefore, merely because appellant has been acquitted in the criminal proceedings and that too on account of complainant, PW1 and shadow witness, PW2, being declared hostile, cannot be a ground for exonerating the appellant as has been urged. Much stress has been laid by learned counsel for appellant on the submission that acquittal is an acquittal and there is no distinction to be made between honourable acquittal or otherwise. However, Rule 16.3 of Punjab Police Rules, 1934 specifically deals with this situation. Hon’ble the Supreme court in the case of **Baljinder Pal Kaur** (supra) has referred to various earlier decisions as reproduced in para 9 of order dated 27.03.2023. In the present case, punishment as imposed vide order dated 15.04.2015 has already been reduced vide order dated 02.07.2018 while taking a lenient view.

11. Learned counsel for State, during the course of hearing, had produced copies of order of suspension, initiation of departmental inquiry, detail of charges and statements of witnesses namely Mr. Satpal, DSP, Jatinder Pal Singh - complainant and Makhan Singh - shadow witness and of Gurmail Singh besides copy of charge sheet, reply and details of the defence witnesses as well as representation and inquiry report. There is no denial of the same by learned counsel for appellant. We have carefully perused the said documents as well.

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12. Reliance by learned counsel for appellant on judgment of Hon'ble the Supreme Court in **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. 1999 (3) SCC 679** and **Shiv Kumar Goel vs. State of Haryana and another 2007 (1) SCT 739** is of no avail as in both the cases it was found by Court in criminal proceedings that charges could not be established against appellant on the basis of evidence led before it. In case of **G.M. Tank vs. State of Gujarat and another 2006 (5) SCC 446**, Court in criminal proceedings found it to be a case of no evidence at all. It is not a case of witnesses turning hostile in criminal proceedings on the basis of which acquittal was accorded to the employee. It is to be reiterated that in the present case, material witnesses have duly supported the allegations against appellant in the departmental proceedings.

13. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 27.03.2018 passed by learned Single Bench which calls for interference by this Court.

14. No other argument has been addressed.

15. This appeal is, accordingly, dismissed with no order as to costs.

(LISA GILL)
JUDGE

(DEEPAK GUPTA)
JUDGE

December 20, 2024
Rts

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