



CWP-6813-2008

1

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

206

CWP-6813-2008

Date of Decision : 27.08.2024

SATNAM SINGH

.... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Pradeep Kumar Kapila, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of :

- (i) conclusion report dated 26.11.2004 (Annexure P-1);
- (ii) order dated 08.09.2006 (Annexure P-3) whereby Disciplinary Authority has awarded punishment of forfeiture of three years permanent service;
- (iii) order dated 03.04.2007 (Annexure P-4) and 19.02.2008 (Annexure P-5) whereby Appellate Authorities have dismissed his appeals.



CWP-6813-2008

2

2. The petitioner joined Punjab Police as Constable. He was implicated in FIR No.112 dated 12.12.2002, under Sections 364, and 34 of IPC (Sections 302, 201, 506 added later on) at Police Station Maur, District Bathinda on the basis of supplementary statement of complainant. The respondent-department initiated departmental enquiry against him and w.e.f. 02.06.2003, he was placed under suspension. The trial Court vide order dated 23.01.2006 acquitted him from all charges levelled in the FIR. He rejoined service from 04.09.2006. He filed reply to departmental charge-sheet and respondent vide order dated 08.09.2006 ordered to forfeit three years of his permanent service. He preferred an appeal before appellate authority which came to be dismissed vide order dated 03.04.2007. He preferred revision against the departmental punishment which also came to be dismissed vide order dated 19.02.2008.

3. Learned counsel for the petitioner submits that as per Rule 16.3 of Punjab Police Rules, 1934 (for short '1934 Rules'), the petitioner could not be departmentally punished because he has been acquitted in the criminal trial. The foundation of departmental proceedings and criminal trial was same. No evidence was led in departmental proceedings and departmental action is based upon investigation of FIR, thus, he could not be punished in view of his acquittal in the criminal trial.

4. Per contra, learned State counsel submits that the petitioner was acquitted because witness turned hostile, thus, he cannot claim



benefit of Rule 16.3 of 1934 Rules. He concedes that petitioner was departmentally punished on account of registration of FIR.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The entire dispute is revolved around interpretation of Rule 16.3 of 1934 Rules, thus, it would be inevitable to look at aforesaid Rule which is reproduced as below:

“16.3. Action following on a judicial acquittal. - (1) When a Police Officer has been tried and acquitted by a criminal court he shall be 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 Deputy Inspector-General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

7. The acquittal from criminal proceedings does not automatically entitle immunity from departmental action. A police officer may be subjected departmental punishment despite acquittal in criminal proceedings as per exceptions carved out in Rule 16.3 of 1934 Rules. If acquittal is not based upon exceptions carved out in Rule 16.3 of 1934 Rules, a police officer is entitled to immunity from departmental action.

8. From the perusal of record, it comes out that the departmental proceedings were kept in abeyance awaiting outcome of criminal trial. There was neither independent scrutiny of evidence nor inquiry by departmental authorities, however, petitioner was subjected to punishment on the sole ground that he has been acquitted because witnesses have turned hostile. The departmental proceedings as well as prosecution before trial Court was on the part of same organization i.e. Punjab Police. The outcome of criminal proceedings was accepted and no further appeal was filed. The situation could be different had authorities pursuing prosecution and departmental proceedings been different.

9. A Division Bench of this Court in **Bhag Singh vs. Punjab &**



Sind Bank Baldev Singh, 2005 (6) SLR 464 has adverted with question of acquittal, honorable acquittal, benefit of doubt etc. The Court has held that mere use of expression “benefit of doubt” or “not proved beyond reasonable doubt” by the trial Court or the appellate Court, cannot be permitted to convert an acquittal on the ground of no evidence, to something less than that. The concepts of “honourable acquittal”, “fully exonerated” or “acquitted of blame” are all unknown to the Criminal Procedure Code, 1973. Therefore, the term “benefit of doubt” cannot detract impact of the acquittal.

10. A two-judge Bench of Hon'ble Supreme Court in **Joginder Singh vs. Union Territory of Chandigarh, 2015 (2) SCC 377** while adverted with appointment on the post of Constable has adverted with question of acquittal vis-a-vis honourable acquittal. The Court has held that acquittal of a person is an “honourable” acquittal in every sense and purpose. A candidate should not be deprived from being appointed to the post, in the public employment, by declaring him as unsuitable to the post even though he was acquitted in the criminal case registered against him. It is apt to notice that in the said case, the appellant therein was acquitted by trial Court still he was denied appointment to the post of Constable. The relevant extracts of the judgment read as :

“16. However, adverted to the criminal proceeding initiated against the appellant, we would first like to point out that the complainant did not support the case of the prosecution as he failed to identify the assailants and further admitted that the contents of Section 161



CrPC statement were not disclosed to him and his signatures were obtained on a blank sheet of paper by the investigating officer. Further, Sajjan Singh, who was an eyewitness of the case, who was also injured, had failed to identify the assailants. Both the witnesses were declared hostile on the request of the prosecution.

17. The learned Additional Sessions Judge, Bhiwani held that the prosecution has not been able to prove in any way the allegations against the appellant. Thus, the learned Judge held that the prosecution had miserably failed to prove the charges levelled against the appellant in the criminal proceedings. Therefore, we are in agreement with the findings and judgment of the learned Additional Sessions Judge and are of the opinion that the acquittal of the accused from the criminal case was an honourable acquittal.

18. The learned counsel has rightly placed reliance upon the decision of this Court in Inspector General of Police v. S. Samuthiram [(2013) 1 SCC 598 : (2013) 1 SCC (Cri) 5661 : (2013) 1 SCC (L&S) 229] of which relevant paragraph is extracted as under : (SCC p. 609, para 24)

“24. The meaning of the expression ‘honourable acquittal’ came up for consideration before this Court in RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle



an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions 'honourable acquittal', 'acquitted of blame', 'fully exonerated' are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression 'honourably acquitted'. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

(emphasis supplied)

19. Further, an acquittal of the appellant is an "honourable" acquittal in every sense and purpose. Therefore, the appellant should not be deprived from being appointed to the post, in the public employment, by declaring him as unsuitable to the post even though he was honourably acquitted in the criminal case registered against him.

20. Further, undisputedly, there has been no allegation of concealment of the fact that a criminal case was registered against him by the appellant. Thus, the appellant has honestly disclosed in his verification application submitted to the selection authority that there was a criminal case registered against him and that it ended in an acquittal on account of compromise between the parties involved in the criminal case, he cannot be denied an opportunity to qualify for any post including the post of a Constable.



21. *Reliance has been placed on the decision of this Court in Deptt. of Home, A.P. v. B. Chinnam Naidu [(2005) 2 SCC 746 : 2005 SCC (L&S) 323] which states herein : (SCC p. 750, para 9)*

“9. A bare perusal of the extracted portions shows that the candidate is required to indicate as to whether he has ever been convicted by a court of law or detained under any State/Central preventive detention laws for any offences whether such conviction is sustained or set aside by the appellate court, if appealed against. The candidate is not required to indicate as to whether he had been arrested in any case or as to whether any case was pending. Conviction by a court or detention under any State/Central preventive detention laws is different from arrest in any case or pendency of a case. By answering that the respondent had not been convicted or detained under preventive detention laws it cannot be said that he had suppressed any material fact or had furnished any false information or suppressed any information in the attestation form to incur disqualification. The State Government and the Tribunal appeared to have proceeded on the basis that the respondent ought to have indicated the fact of arrest or pendency of the case, though Column 12 of the attestation form did not require such information being furnished. The learned counsel for the appellants submitted that such a requirement has to be read into an attestation form. We find no reason to accept such contention. There was no specific requirement to mention as to whether any case is pending or whether the applicant had been arrested. In view of the specific language so far as Column 12 is concerned the



respondent cannot be found guilty of any suppression.”

(emphasis supplied)

11. In a recent judgment, Supreme Court in **Ram Lal vs. State of Rajasthan, 2023 SCC Online SC 1618** has held that Courts are supposed to look into the judgment of acquittal while adjudicating departmental proceedings. The relevant extracts of the judgment read as :

“28. Expressions like “benefit of doubt” and “honorably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.”

12. It is apt to notice here that in the case in hand, on the complaint of father of deceased, investigation was initiated against two persons who were found innocent. Thereafter on the basis of supplementary statement of complainant, the petitioner and others were implicated and challan was presented against them. The witnesses turned hostile and all the accused came to be acquitted. The witnesses of criminal proceedings made a totally



different statement after conclusion of the first investigation. This fact needs to be noticed and taken care of.

13. In the wake of judgment of Division Bench of this Court in Bhag Singh’s case (supra), a two-judge Bench of Supreme Court in Joginder Singh’s case (supra) and judgment of Supreme Court in Ram Lal’s case (supra), the impugned orders dated 08.09.2006 (Annexure P-3), 03.04.2007 (Annexure P-4) and 19.02.2008 (Annexure P-5) deserve to be set aside. Accordingly, petition is allowed and impugned orders are hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

27.08.2024
anju

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No