

RSA-3951 of 2019 (O & M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204 RSA-3951 of 2019 (O & M)
Date of decision:10.04.2024

Punjab State Through Its Secretary and others
...Appellants
Versus
Gurmit Singh
...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Chaudhary, DAG, Punjab.
for the appellants.
Mr. Digvijay Singh, Advocate for
Mr. Sartej S. Gill, Advocate for the respondent.

SUVIR SEHGAL, J.

CM-10645-C-2019

1. Prayer in the application filed under Section 5 of the Limitation Act, 1963, is for condonation of delay of 70 days in the filing of the appeal.
2. State counsel urges that the delay in the filing of the appeal has occurred due to the time consumed in according and issuance of sanction for filing of appeal.
3. Notice of the application was issued to the respondent on 21.08.2019, however, no reply has been filed.

4. Having heard counsel for the parties, this Court is satisfied with the reasons given in the application. Appellants have made out a sufficient cause for condonation of delay.

5. Accordingly, delay of 70 days in the filing of the appeal is condoned.

6. Application is disposed of.

Main Case

7. Defendant-appellants are in second appeal challenging the judgment and decree dated 07.02.2019 passed by the learned Additional District Judge, Amritsar.

8. Plead case of the plaintiff-respondent is that he joined the Punjab Police on 15.05.1992 on the post of Constable. FIR No.45 dated 12.02.2011 was lodged against him for offences under Sections 364, 498-A, IPC at P.S. A-Division, Amritsar, by his father-in-law. Plaintiff proceeded on leave from 17.02.2011 to 19.02.2011 and apprehending arrest in the FIR, he absented himself from duty thereafter. By order dated 14.08.2011, he was placed under suspension. He surrendered before the Court and was released on bail. Departmental enquiry was initiated against him for remaining absent from duty and on the basis of the report, vide impugned order dated 26.05.2012, he was dismissed from service with retrospective effect from 19.02.2011. After facing trial in the FIR case, plaintiff was acquitted by judgment dated 27.10.2014. Departmental appeal filed by him was accepted, punishment was reduced to forfeiture of three years approved service on permanent basis towards annual increments and he was reinstated in service. The period from date of dismissal to reinstatement was treated as dies non.

Challenging both the orders, plaintiff-respondent filed a suit for declaration and consequential relief.

9. Upon notice, suit was contested by the defendant-appellants by taking various preliminary submissions. It was submitted that the allegation levelled against the plaintiff-respondent was that he used to harass his wife and due to the registration of the criminal case, he was proceeded against departmentally as he was arrested in the FIR. Plaintiff filed a replication reiterating the pleas taken in the plaint. On the basis of the pleadings of the parties, issues were framed. After they led evidence, Trial Court by judgment and decree dated 29.09.2017, dismissed the suit. First appeal preferred by the plaintiff was accepted and the orders passed by the defendants were set aside and they were directed to pass a fresh order within a period of four months after getting the certified copy of the judgment. It is in this backdrop that the defendant-appellants are before this Court in the present appeal.

10. State counsel has argued that the plaintiff-respondent was acquitted in the criminal case as he was given a benefit of doubt and it cannot be said that he had earned a clean acquittal. On the other hand, counsel for the plaintiff-respondent has taken a stand that acquittal is acquittal whether it is on account of benefit of doubt or on the failure of the prosecution to prove the charge.

11. I have heard counsel for the parties and considered their respective submissions as well as examined the record of the Trial Court.

12. In **Union Territory, Chandigarh Administration and others Versus Pradeep Kumar and another** (2018) 1 SCC 797, Hon'ble Supreme Court has held as under:-

*“10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the post concerned. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in **Inspector General of Police and another Versus S. Samuthiram** (2013) 1 SCC 598, in which this Court held as under:- (SCC p. 609, para 24).*

*“24. The meaning of expression “honourable acquittal” came up for consideration before this Court in **RBI versus Bhopal Singh Panchal** (1994) 1 SCC 541. 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 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.”

13. It is, therefore, imperative to examine the judgment dated 27.10.2014 passed by the learned Additional District Judge, Amritsar, whereby the plaintiff-respondent was acquitted from the charges levelled against him. The relevant extract of the judgment is reproduced hereunder:-

“20. Apart from these two witnesses, the prosecution has not led evidence of any other witness to prove on file the guilt against the accused. The other witnesses examined by the prosecution are formal witnesses as even the statement of PW4 Investigating Officer ASI Rachhpal Singh is not sufficient to prove on file the guilt of the accused as he has just proved the investigating part. Thus, in view of above discussion, there is nothing on file on the basis of which it can be held that accused had ever treated his wife Rajwant Kaur with cruelty or that he had kidnapped her. Since the prosecution has miserably failed to bring home the guilt of the accused beyond any reasonable shadow of doubt, the points of determination formed in earlier part of the judgment are decided against the prosecution and in favour of accused. Accordingly, by giving the benefit of doubt, accused Gurmeet Singh stands acquitted of the charge framed against him. The file be consigned to the record room.”

14. It transpires from the above reproduced judgment passed in the criminal case that the prosecution could not establish that the plaintiff-respondent was maltreating his wife or had abducted her. As the prosecution failed to prove the charge beyond any reasonable doubt, plaintiff-respondent was acquitted by the Trial Court of the charges, although, it was mentioned

that he has been given the benefit of doubt. Furthermore, it cannot be overlooked that the FIR had been registered by the father-in-law of the plaintiff-respondent, which evidently was a result of a marital discord. Though, it has been held by the Apex Court that the phrase “honourable acquittal” is not defined anywhere in the Code of Criminal Procedure, but from an examination of the judgment of the Trial Court, this Court has no hesitation in coming to the conclusion that the plaintiff-respondent had earned a clean acquittal.

15. An examination of the impugned appellate order dated 10.02.2016 shows that the reason as to why the punishment of forfeiture of three years service has been imposed has not been given nor has the appellate authority examined the judgment passed by the Trial Court in the criminal case. This Court, therefore, does not find any reason to interfere with the judgment and decree passed by the First Appellate Court, which deserves to be upheld.

16. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.

10.04.2024
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No