

CWP-28296-2018 & 1 2024:PHHC:006526
CWP-6408-2023

244 (2)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-28296-2018
Date of Decision:18.01.2024

ASHU KUMAR Petitioner

Versus

STATE BANK OF INDIA Respondent

2) CWP-6408-2023

AJAY RAJPetitioner

Versus

STATE BANK OF INDIA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. R.K. Handa, Advocate,
Mr. Dharam Bir Bhargav, Advocate,
Ms. Gauri Handa, Advocate and
Mr. Kulwinder Bhargav, Advocate
for the petitioner(s) (in both case).

Mr. Vikas Chatrath, Advocate,
Mr. B.P.S. Thakur, Advocate
Mr. Rajbir Singh, Advocate and
Mr. Dharam Vir Singh, Advocate
for the respondent(s) (in both case).

JAGMOHAN BANSAL, J. (Oral)

1. Written statement filed on behalf of respondents No.1 and 2
through Sh. Ran Singh, Regional Manager, State Bank of India and
Regional Business Officer, Ambala (Haryana) is taken on record.

Registry is directed to tag the same at an appropriate place.

2. By this common order CWP-28296-2018 & CWP-6408-2023 are hereby disposed of since issue involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-28296-2018.

3. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of charge sheet dated 05.02.2016 (Annexure P-2); order dated 10.03.2017 (Annexure P-3) whereby Enquiry Officer was appointed; order dated 26.10.2017 (Annexure P-5) whereby Disciplinary Authority awarded punishment of removal from service and order dated 18.05.2018 (Annexure P-8) whereby Deputy General Manager has dismissed appeal of the petitioner.

4. The petitioner was appointed as Customer Assistant, State Bank of India, SME Branch, Yamuna Nagar on 11.02.2015. An FIR No.119 dated 30.08.2015 under Sections 454, 380, 409 and 120-B of Indian Penal Code came to be registered alleging theft of Rs.12,91,800/- from the ATM of respondent-Bank. The petitioner was not named in the FIR, however, he came to be arrested and recovery of Rs. 1 Lakh was effected from him. On the basis of alleged recovery, the respondent-Bank issued charge sheet dated 26.10.2017 alleging that police has recovered a sum of Rs.1 lakh out of stolen money. The Enquiry Officer conducted enquiry and found petitioner guilty of commission of offence of theft. The Disciplinary Authority i.e. Assistant General Manager vide order dated 26.10.2017 ordered to remove the petitioner from service. It was further ordered that removal would be with superannuation benefits i.e. pension, provident fund and gratuity. The petitioner had joined just 6

months prior to alleged incident, thus, petitioner, practically, was not entitled to any superannuation benefit. The Disciplinary Authority in its order dated 26.10.2017 with respect to all the charges concluded that police has recovered a sum of Rs.1 lakh from the petitioner and challan has been filed against him, thus, he is liable to be punished. In other words, the foundation of the impugned order was involvement of the petitioner in aforesaid FIR. The relevant extracts of order dated 26.10.2017 passed by Disciplinary Authority read as:

“Charge No.1

You divulged stolen secret information regarding Sadhaura branch ATM password and system of handling of ATM machine to an outsider Sh. Chander Mohan, with an ulterior motive of stealing ATM Cash. Thus, you connived with Sh. Chander Mohan an outsider and also Sh. Ajay Raj, Customer Assistant, Sadhaura Branch to commit fraud in Bank by way of embezzlement of ATM Cash of Sadhaura Branch.

My findings:

To prove the charge No 1, the PO has produced CCTV footage, copy of FIR, final report of FIR, apart from deposition of Sh Balinder Kumar and Sh Sulekh Chand. It has come on record that Sh Ajay Raj shared the password with you. You further shared it with Chander Mohan apart from system of handling of ATM. It is also matter of record that out of total amount recovered, Rs. One lac has also been recovered from you by the Police. All these incidents are sufficient to prove the charge as all such evidences in all probabilities lead to your involvement and therefore I agree with the findings of the EO and hold the charge as proved.

Charge No.2

On account of your involvement in the fraud, FIR was lodged with local Police and you were arrested by Police on 02.09.2015. You remained under judicial / police custody till 05.04.2016, which adversely affected the reputation of the Branch and image of the Bank.

My findings:

To prove the charge No 2, the PO has produced the copy of FIR, Final report of FIR, cuttings of Various News Papers regarding your involvement in this ATM case, apart from depositions of Sh Sulekh Chand, Sh Balinder Kumar, Sh Pawan Kumar, and Sh Davinder Kumar Chawla. All these depositions and news items are sufficient to prove that you had remained in Police/ Judicial custody, it leads to adversely affected the reputation and Image of the bank in the eyes of the public. Therefore, I agree with the findings of the EO and hold the charge as Proved.

Charge No.3

The part amount of Rs. 1,00,000.00 (approximately), out of total fraud amount of Rs. 12,74,800/- has been recovered from you by the Police and the same has been deposited in the court. This establish your involvement in the fraud.

My findings:

To prove the charge No. 3, the PO has produced copy of letter received from Police regarding recovery of Rs. One lac from you, out of total amount of theft of Rs 12,74,000.00. He also produced copy of court order dated 30.08.16 wherein the amount covered by police released by the court to the Bank. These evidences lead to prove that the recovery has been made by the police from the you. Therefore, I hold the charge as Proved.”

The petitioner preferred appeal before the Appellate Authority against the aforesaid order which came to be dismissed by Deputy General Manager vide order dated 18.05.2018 (Annexure P-8).

5. On the one hand, the petitioner was subjected to departmental proceedings and on the other hand, he was made to face criminal trial. The police after completing investigation filed its report under Section 173 of Cr.P.C. alleging commission of offence of theft. The police as well as respondent-Bank led its evidence before the Trial Court. Judicial Magistrate 1st Class, Sub Division, Bilaspur vide judgment dated 03.12.2022 acquitted both the petitioners. The Trial Court came to a conclusion that prosecution has miserably failed to prove guilt of the accused beyond reasonable doubt.

6. Learned counsel for the petitioner submits that foundation of charge sheet as well order of removal was alleged recovery of Rs.1 lakh from the petitioner and filing of challan by the police in the aforesaid FIR. The petitioner was not named in the FIR. The Trial Court has found that petitioner was never entrusted with alleged money nor was in-charge of ATM. The petitioner was not posted in the Branch which was in-charge of the ATM in question. The security guard did not support case of the prosecution. CCTV footage could not help the prosecution. The denomination of notes recovered by police did not match with denomination proposed by Bank. The alleged theft took place during day time and ATM was situated in a busy locality. The Trial Court has threadbare dealt with each and every allegation of the prosecution, thus, impugned order of dismissal from service cannot sustain. There is no concept of honorable acquittal and this fact has duly been considered by a

Division Bench of this Court in **Bhag Singh vs. Punjab & Sind Bank Baldev Singh, 2005 (6) SLR 464** as well as Hon'ble Supreme Court in **Joginder Singh vs. Union Territory of Chandigarh, 2015 (2) SCC 377.**

7. Per contra, Mr. Vikas Chatrath, learned counsel for the respondents submits that petitioner has not challenged findings of Enquiry Officer, thus, he cannot take advantage of acquittal. The petitioner was bound to challenge findings of Enquiry Officer and in the absence of challenge to findings of Enquiry Officer, the challenge to punishment order is not sustainable. It is settled proposition of law that conviction in criminal trial is recorded if prosecution proves its case beyond the reasonable doubt whereas departmental proceedings are based upon preponderance of evidence. The standards and yardstick of scrutiny of evidence in departmental and criminal proceedings are different, thus, petitioner cannot be reinstated on the basis of acquittal by Trial Court.

In support of his contention, he relied upon the judgment of Supreme Court in '**U.P. State Road Transport Corporation Vs. Vinod Kumar**' 2008 (1) SCC (L&S)1 and '**State of Karnataka and another Vs. Umesh**' 2022 (6) SCC 563.

On being asked, counsel for the respondent expressed his inability to controvert the fact that the charges imputed in the departmental proceeding were based upon FIR and evidence led in departmental and criminal proceeding were same.

8. I have heard the arguments of learned counsel for the parties and with their able assistance perused the record.

9. Supreme Court in the case of **Umesh** (supra) has held that punishment awarded in departmental proceeding cannot be quashed on

the ground of acquittal in criminal trial. High Court does not act as an Appellate Authority over the findings of Disciplinary Authority. The relevant extracts of the judgment reads as:

“22. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not reappreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:

- (i) the rules of natural justice have been complied with;*
- (ii) the finding of misconduct is based on some evidence;*
- (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and*
- (iv) whether the findings of the disciplinary authority suffer from perversity; and*
- (v) the penalty is disproportionate to the proven misconduct.*

23. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are

sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”

10. Supreme Court in **M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679** after adverting with previous enunciation of law, laid down guidelines with respect to stay of departmental proceeding when criminal proceedings on the same set of allegations are pending before competent court. The appellant therein was acquitted in criminal trial, however in disciplinary proceedings he was dismissed from service. The order of dismissal was passed *ex-parte* and appellant was not given subsistence allowance during the period of suspension. The Supreme Court has held:

34. There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely, “the raid conducted at the appellant's residence and recovery of incriminating articles therefrom”. The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police officers and panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were

examined in the criminal case but the Court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the “raid and recovery” at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings to stand.

35. Since the facts and the evidence in both the proceedings, namely, the departmental proceedings and the criminal case were the same without there being any iota of difference, the distinction, which is usually drawn as between the departmental proceedings and the criminal case on the basis of approach and burden of proof, would not be applicable to the instant case.

11. Supreme Court while noting the fact that standard of evidence in departmental and criminal proceedings is different, in ***G.M. Tank v. State of Gujarat, (2006) 5 SCC 446*** has held that where both proceedings are based upon same set of allegations and evidence, on acquittal in criminal proceedings, the employee cannot be punished in departmental proceedings. The relevant extracts of the judgment read as:

29. The judgment in State of A.P. v. S. Sree Rama Rao [(1964) 3 SCR 25 : AIR 1963 SC 1723] was cited for the purpose that the High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a

public servant, it is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated.

30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its

judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

31. In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.

12. By majority, a three judge bench of the Supreme Court in **Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581**, while dealing with outcome of departmental vis-a-vis criminal proceeding has concluded:

38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) *Adjudication proceedings and criminal proceedings are independent in nature to each other;*

(iv) *The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*

(v) *Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*

(vi) *The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*

(vii) *In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.*

13. 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.”

14. A Division Bench of this Court in **Bhag Singh's case (supra)** 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.

15. A two-judge Bench of Hon'ble Supreme Court in **Joginder Singh's case (supra)** while adverting 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, advertng 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)

16. From the above cited judgments, following guiding principles can be culled out:

- i) Standard of evidence and yardstick adopted to adjudicate same matter in departmental and criminal proceedings are different.*
- ii) Conviction in criminal trial rests upon proving guilt beyond reasonable doubt whereas punishment in departmental proceedings rests upon preponderance of evidence.*
- iii) High Court, in exercise of power conferred by Article 226 of Constitution of India, while deciding petition against departmental punishment cannot act as an appellate authority.*
- iv) If the departmental and criminal proceedings are based upon same set of allegations, charges and evidence either oral or documentary and there is acquittal in criminal trial, the departmental proceedings may be set aside.*
- v) It is duty of the court to examine findings of criminal court and it should not sway by use of expression ‘acquittal’, ‘honourable acquittal’ and ‘beyond reasonable of doubt’ etc.*

17. The contention of respondent that petitioner has not specifically disputed findings of Enquiry Officer is misconceived because petitioner has specifically challenged charge sheet, appointment of Enquiry Officer, order of Disciplinary Authority as well as Appellate

Authority. It is apt to notice here that petitioner was acquitted by Trial Court after filing of present petition. In any case, this Court being a Constitutional Court cannot turn a blind eye and ignore factual position when question of livelihood of two families is involved.

18. In view of above-cited judgments, an employee cannot be reinstated merely on acquittal from criminal trial. The Court is duty bound to look at nature of allegations made in departmental and criminal proceedings. The Court is further supposed to look into findings of Trial Court where an employee claims reinstatement on the basis of his acquittal in criminal trial. If the foundation of departmental proceedings and criminal trial is same, the Court has to look into judgment of acquittal and if it finds that acquittal is neither based upon technical grounds nor turning of witnesses hostile, question of reinstatement needs to be examined.

19. The petitioner was subjected to punishment of dismissal on the same set of evidence and allegations which formed foundation of criminal trial. The Disciplinary Authority has ordered to dismiss the petitioner on the sole ground that petitioner is involved in a criminal case and police has recovered a sum of Rs.1 lakh from his possession. The Trial Court has returned findings with respect to each and every aspect. The Court has found that petitioner was neither in-charge of the ATM nor he was entrusted with the alleged money. The petitioner was not named in the FIR. The alleged theft took place during day time and ATM was in a busy locality. The denomination of notes recovered by police did not match with denomination furnished by Bank. No electronic evidence could be proved even though in the investigation there was discussion

about electronic evidence. The guard who was posted at ATM did not support case of the prosecution. The theft took place in the day time and it came in the knowledge of Bank officials in the evening, however, FIR was lodged next day. The presence of petitioner was not found in any CCTV footage. The finger prints were captured, however, petitioner could not be connected with captured finger prints.

20. Keeping in mind judgment of Division Bench of this Court in ***Bhag Singh*** (supra), Judgment of Supreme Court in ***Joginder Singh*** (supra) as well in ***Ram Lal*** (supra) and findings of Trial Court, this Court comes to a conclusion that petitioner has been acquitted after a full fledged trial and he has neither being acquitted on technical grounds nor witnesses have turned hostile.

21. In the case in hand, charge sheet as well as punishment order rested upon allegations made in the FIR and thereafter challan presented before the Trial Court. The respondent-Bank has not considered or examined evidence independent from criminal proceedings. There was full fledged trial and petitioner has been acquitted after considering evidence led by prosecution. It is not a case of acquittal by chance or because of winning over of witnesses, thus, departmental action needs to be re-examined.

22. In the wake of above discussion and findings, this Court is of the considered opinion that impugned orders deserve to be quashed and accordingly quashed. The Disciplinary Authority is hereby directed to re-examine the matter, in the light of judgment of acquittal as well as findings recorded by this Court. The needful shall be done within 3 months from today. It is further made clear that the Disciplinary

Authority shall consider question of back-wages in the light of findings recorded by Supreme Court in *Ram Lal's case* (supra) and ‘*Allahabad Bank and other Vs. Avtar Bhushan Bhartiya*’ 2022 Livelaw (SC) 405.

(JAGMOHAN BANSAL)
JUDGE

18.01.2024
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>