



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25390-2024
Date of Decision:01.10.2024

TEHAL SINGH Petitioner

Versus

STATE OF PUNJAB AND ORS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ramesh Sharma, 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 order dated 02.08.2024 (Annexure P-12) whereby respondent has rejected his claim. He is further seeking direction to reinstate him with all consequential benefits.

2. The petitioner joined Punjab Police on 30.11.1990. On 04.08.2017, he was posted as Assistant Sub-Inspector at Police Station Kotwali Nabha. He came to be implicated in FIR No.7 dated 07.08.2017, under Sections 7 and 13 (2) of Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau, Ludhiana. The FIR was lodged on the basis of complaint filed by Harinder Pal Singh. A trap was laid by Vigilance Bureau. On the basis of recovery from petitioner, he was arrested and thereafter *challan* was presented against him. The Trial



Court framed charges against him, however, he came to be acquitted because neither complainant nor witnesses fully supported version of the prosecution. They were declared hostile and prosecution could not cull out any reliable information from them. Under these circumstances, the Trial Court extending benefit of doubt, acquitted the petitioner.

3. On one hand, criminal proceedings were going on against the petitioner and on the other hand, respondent initiated departmental proceedings. Charge-sheet dated 21.12.2017 came to be served upon him. After conducting inquiry, the Competent Authority vide order dated 17.06.2019 dismissed him from service. He preferred an appeal before IGP, Patiala who vide order dated 11.10.2019 dismissed his appeal. He further preferred revision before DGP who dismissed his revision vide order dated 02.07.2020.

4. The petitioner came to be acquitted vide judgment dated 09.08.2023 and he preferred Civil Writ Petition No.5789 of 2024 before this Court assailing orders of dismissal passed by authorities.

5. This Court vide order dated 13.03.2024 directed the Appellate Authority to pass a fresh order, keeping in view mandate of Rule 16.3 of Punjab Police Rules, 1934 (for short '1934 Rules'). The Appellate Authority passed afresh order on 24.04.2024. The said order came to be set aside vide order dated 18.05.2024 passed by this Court in CWP No.11688 of 2024. The respondent was directed to pass a fresh order. The respondent has passed impugned order dated 02.08.2024 (Annexure P-12) whereby claim of petitioner has been declined.

6. Mr. Ramesh Sharma, Advocate for the petitioner submits that respondent has mechanically dismissed claim of the petitioner. Every



acquittal is honourable acquittal. The authorities cannot ignore judgment of acquittal on the ground that acquittal is based upon benefit of doubt.

7. I have heard arguments of learned counsel for both sides and perused the record with their able assistance.

8. The petitioner is correct while claiming that a judgment of acquittal though records that accused is acquitted on the ground of benefit of doubt, yet in every case, it cannot be called as acquittal on the ground of benefit of doubt.

Supreme Court in a recent judgment in ***'Ram Lal Vs. State of Rajasthan', 2023 SCC OnLine SC 1618*** has categorically held that it is duty of the Court to examine whether Court has acquitted on the ground of benefit of doubt or otherwise. The relevant extracts of the judgment are reproduced as below:

“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.”



9. Fate of delinquent employees is normally adjudicated on the basis of judicial precedents wherein it has been held that an employee deserves to be reinstated, if he has been honourably acquitted in the criminal proceedings especially when foundation of departmental and criminal proceeding is same. If the evidence led in the criminal proceedings is identical to evidence led in the departmental proceedings, the outcome of criminal proceedings cannot be ignored. There are also precedents to the effect that an employee cannot be reinstated merely on the ground that he has been acquitted in the criminal proceedings. In the criminal proceedings, an accused is convicted if prosecution proves its case beyond the reasonable doubt whereas departmental proceedings depend upon preponderance of probability. In the departmental proceedings, the authorities are not required to prove beyond reasonable doubt.

10. In the case of Punjab Police, the Officers up to the rank of Inspector are governed by 1934 Rules. Rule 16.3 of 1934 Rules specifically provides that a Police Officer shall not be subjected to departmental punishment, if he has been acquitted in the criminal proceedings. In the said rule, it has been further provided that benefit of acquittal shall not be extended, if acquittal is based upon technical grounds or the prosecution witnesses have been won over or Court records finding to the effect that offence was actually committed and suspicion rests upon the Police Officer. Rules 16.3 of 1934 Rules for the ready reference 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.”

11. In the case in hand, there was allegation against the petitioner that he has demanded bribe from the complainant. A trap was laid by Vigilance Bureau. Money was recovered from accused. The complainant before the Court did not claim that he did not approach petitioner or Vigilance Bureau. He made deviation in his version which led to the conclusion that prosecution has failed to prove guilt of the

accused beyond reasonable doubt.

12. In view of judgment of Supreme Court in *Ram Lal (supra)*, this Court has duty to scrutinize judgment of acquittal recorded by the Court. From the perusal of judgment of acquittal passed by Trial Court, this Court finds that case of petitioner falls within Clause (b) of Rule 16.3 (1) of 1934 Rules, thus, he is not entitled to benefit of acquittal in terms of Rule 16.3 of 1934 Rules. There is no reason to set aside the impugned order dated 02.08.2024 (Annexure P-12).

13. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

01.10.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>