



2024:DHC:9299-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 5846/2024 & CM APPL. 24171/2024**

COMMISSIONER OF POLICE AND ORSPetitioners
Through: Mr. Neeraj, SPC with Mr.
Vedansh Anand, GP, Mr. Sanjay Pal and
Mr. Soumyadip Chakraborty, Advs.

versus

HARISH CHHIKARARespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)% **28.11.2024****C. HARI SHANKAR, J.**

1. The respondent, who was working as Constable in the Delhi Police, was subjected to disciplinary proceedings instituted against him on 30 August 2010 on the ground that he had, at the time of application for the post of Sub-Inspector (Exe.), PH-III, filled in three different forms, one of which was for another person.

2. Prior to the institution of the departmental proceedings, FIR 68/2010 had also been lodged against the respondent on 15 May 2010, under Section 419 of the Indian Penal Code at PS Sonia Vihar, on the same allegation.

3. The aforesaid criminal proceedings ultimately culminated in the

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discharge and acquittal of the respondent by order dated 1 August 2016 by the learned Additional Chief Metropolitan Magistrate¹.

4. The said order was never challenged and has attained finality.
5. The disciplinary proceedings culminated in the dismissal of the respondent from service by order dated 21 December 2011.
6. Consequent on his acquittal in the criminal proceedings by the learned ACMM, the respondent petitioned the Central Administrative Tribunal² by way of OA 1223/2023, invoking Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980³. It may be noted that, the petitioner had, in communication dated 6 April 2023, sought to defend the dismissal of the respondent from service by placing reliance on Rule 12(e) of the DPPAR. Rule 12(e) of the DPPAR reads thus:

“12. Action following judicial acquittal. –

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

(e) additional evidence for departmental proceedings is available.”

7. The learned Tribunal has observed that, as the witnesses cited in the departmental proceedings were the very same witnesses who had been cited in the criminal case and that, in fact, in the criminal case,

¹ “the learned ACMM” hereinafter

² “the Tribunal”, hereinafter

³ “the DPPAR” hereinafter



there were additional witness, there was no additional evidence with the petitioner as would justify invocation of Rule 12(e) of the DPPAR.

8. The findings of the Tribunal may be reproduced thus:

“13. We also find that in the FIR also these three very witnesses other than a few more have been named to be examined as witnesses to prove the allegation against the applicant. From the above it is clear that there was no additional evidence available as examined by the department in the departmental proceedings other than these three witnesses who were listed and examined in the criminal case by the learned court of competent jurisdiction. Therefore, it cannot be said that the instant case is covered under rule 12 (e) of Delhi Police (Punishment & Appeal) Rules, 1980, to confirm the order of dismissal passed by the DA.”

9. On an overall conspectus of the facts, we find the findings of the Tribunal to be unexceptionable. The witnesses cited against the respondent in the departmental proceedings were the same witnesses who were cited against him in the criminal proceedings.

10. The criminal proceedings resulted in his acquittal.

11. Accordingly, no fault can be found with the Tribunal's decision that no additional evidence was available with the petitioner as would justify dismissing the respondent from service invoking Rule 12(e) of DPPAR.

12. We may also note that the impugned order was further followed by another Bench of the Tribunal in judgment dated 4 March 2024 in OA 1428/2019 to quash the order of dismissal passed in that case as well.



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13. That decision was challenged before this Court by way of WP (C) 11751/2024, which stands dismissed by a coordinate Bench of this Court vide judgment dated 4 October 2024.

14. As such, by implication, the impugned order in the present case also stands affirmed by a coordinate Bench of this Court.

15. For all the aforesaid reasons, no case is made out for interference with the impugned order.

16. The writ petition is accordingly dismissed in *limine*.

17. Compliance with the impugned order be ensured within four weeks from today.

C. HARI SHANKAR, J.

GIRISH KATHPALIA, J.

NOVEMBER 28, 2024

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Click here to check corrigendum, if any