



2024:DHC:9662-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 16815/2024 and CM APPL. 71149/2024 & CM APPL. 71150/2024

DELHI POLICE & ORS. ....Petitioners  
Through: Mr. Viplav Acharya, SPC with  
Ms. Laavanya Kaushik, GP  
SI Ved Prakash

versus

KRISHAN KUMAR .....Respondent  
Through: Mrs. Avnish Ahlawat, Standing  
Counsel with Mr. Nitesh K Singh, Ms. Aliza  
Alam and Mr. Mohnish Sehrawat, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT (ORAL)**  
**12.12.2024**

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**C. HARI SHANKAR, J.**

1. While he was working as Constable in the Delhi Police, FIR 94/2001 under Sections 420/467/468/471 read with 120 B of the Indian Penal Code, 1860<sup>1</sup> was registered against the respondent Krishan Kumar and his father Prabhu Dayal at P.S. I.P. Estate, on the allegation that the respondent had secured employment in the Delhi

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<sup>1</sup> "IPC", hereinafter



2024:DHC:9662-DB



Police on 12 November 1984 on the basis of a forged matriculation certificate in which he was alleged to have erased the word “Bal” and added the word “Kumar” after the word “Krishan”. Additionally, it was alleged that, in the said matriculation certificate, the date of birth of the respondent was mis-declared as 27 April 1964 whereas it was actually 26 September 1966.

2. This, it was alleged had been engineered by the respondent and his father Prabhu Dayal in conspiracy with Bal Kishan, brother of the respondent. There were thus three accused in the FIR; Prabhu Dayal, Bal Krishan and the respondent.

3. On 8 April 2002, during the pendency of the aforesaid criminal case, the respondent was served with a memorandum of charges dated 17 January 2002, containing the very same allegation which formed subject matter of FIR 94/2001, i.e. that the respondent had, in collusion with his brother, Bal Krishan and father Prabhu Dayal, cheated the Delhi Police by misstating his date of birth in the documents submitted at the time of obtaining employment as 27 April 1964, whereas his actual date of birth was 26 September 1966.

4. There was, therefore, clear identity between the allegation in the chargesheet dated 17 January 2002 and the second allegation in the FIR 94/2001, that the respondent had in the matriculation certificate submitted by him at the time of securing employment in the Delhi



2024:DHC:9662-DB



Police, mis-declared his date of birth.

5. *Vide* order dated 9 October 2002, the petitioner directed that the disciplinary proceedings against the respondent be kept in abeyance pending the final decision in the criminal case emanating out of FIR 94/2001 dated 24 February 2001. However, subsequently by order dated 16 July 2003, the disciplinary proceedings were re-opened and entrusted to an Inquiry Officer<sup>2</sup>.

6. The IO, vide his Inquiry Report dated 24 November 2003, held the charges against the respondent, of having used a forged matriculation certificate for obtaining employment as Constable in the Delhi Police, to have been proved. A copy of the Inquiry Report was furnished to the respondent, who was afforded an opportunity to represent thereagainst to the Disciplinary Authority<sup>3</sup>.

7. By order dated 19 August 2016, the Additional Chief Metropolitan Magistrate<sup>4</sup>, while acquitting the respondent of the charge under Sections 468 and 471 of the IPC, found him guilty of the offence punishable under Section 420 IPC. This was followed by order on sentence dated 15 September 2016, sentencing the respondent with four years' simple imprisonment.

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<sup>2</sup> "the IO", hereinafter

<sup>3</sup> "the DA", hereinafter

<sup>4</sup> "the ACMM", hereinafter



8. The respondent appealed against the aforesaid judgment and order on sentence passed by the learned ACMM to the learned Special Judge (PC Act), CBI, vide CA 54994/2016<sup>5</sup>.

9. The said appeal came to be allowed by the learned Special Judge by judgment dated 25 October 2016. Paras 41 to 50 of the judgment of the learned Special Judge merit reproduction:

41. None of the prosecution witnesses are able to say as to in which gazette forgery had been committed. None of the prosecution witnesses have deposed that whether appellant/convict Krishan Kumar had given the matriculation examination or Bal Krishan had given the examination who was declared passed in the year 1981.

42. Ld. Trial Court while convicting the appellant has relied upon letter Ex.PW5/C, however, the said letter has not been proved in accordance with the law as PW5 in his cross-examination has categorically deposed that he can not identify the signatures and name of the officials who have signed the letters. Thus, PW5 had merely exhibited letter dt.20.08.1998 and has not proved the same in accordance with the law.

43. The Ld. Trial Court has also relied upon the reports of handwriting expert Ex.PW19/A and Ex.PW19/B. However, the reliance of Ld. Trial Court on the report of handwriting expert Ex.PW19/A and Ex.PW19/B for convicting the accused is erroneous for the simple reason that handwriting expert was expert in the handwriting of the person. He was not a forensic scientist who could have told as to which page of the register was inserted subsequently. The report submitted by handwriting expert regarding the forgery pertaining to the office gazette is of no help to the prosecution.

44. The prosecution was required to prove that convict Krishan Kumar had not studied in Class X in DAV School, Gurgaon in the year 1980-1981 by leading sufficient evidence. However, the

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<sup>5</sup> **Krishan Kumar v State**



prosecution has merely produced certificate issued from DAV School on the basis of attendance register pertaining to Section Xth B only. Attendance register Ex.PW2/2, original of which is Ex.PW16/B no where mentions that Bal Krishan whose admission number is mentioned as 9163 had appeared in the Xth examination whom roll number was 719617 allotted by Haryana Board. No material whatsoever has been placed by the prosecution except attendance register to show that Bal Krishan had taken Xth examination to whom roll number 719617 was allocated.

45. The prosecution has thus not led any evidence to connect admission number of Bal Krishan S/o Prabhu Dayal with roll number allotted by Haryana Board, Bhiwani. The prosecution has also not produced the attendance register of other section of class Xth of DAV Sr. Secondary School, Gurgaon.

46. There is possibility that appellant / convict Krishan Kumar may have studied in other sections. The said possibility could have been ruled out by the prosecution by producing attendance registers of other sections but prosecution has not produced the same, thus the chain of circumstances remained incomplete.

47. It can not be disputed that convict Krishan Kumar and his brother Bal Krishan can not be allotted same roll number during board examination. Roll number 719617 could have been allotted only to one student who had passed in 10<sup>th</sup> examination in the year 1981, however, who was that student? Whether roll no.719617 was allotted to convict Krishan Kumar or his brother Bal Krishan? These questions are required to be answered by the prosecution, but prosecution has not produced any clinching evidence to show that roll no. 719617 was allotted by the board to Bal Krishan.

48. The prosecution was required to prove the guilt of the appellant / convict beyond any reasonable doubt. The Ld. Trial Court while convicting the accused Krishan Kumar for the offence u/s 420 IPC has relied upon documents which are not proved in accordance with the law.

49. The Ld. Trial court has also not considered that the prosecution had produced attendance register only of Section Xth B of DAV Sr. Secondary School, Gurgaon and had not produced attendance register of other sections. Ld. Trial court has thus not appreciated that the chain of circumstances, to prove the guilt of appellant/convict Krishan Kumar for the offence u/s 420 IPC is not complete. The Ld. Trial Court has thus committed error in



2024:DHC:9662-DB



observing that prosecution has proved the guilt of the accused for the offence punishable u/s 420 IPC beyond reasonable doubts.

50. In view of the above facts and circumstances, I am of the considered view that prosecution has not proved the guilt of the appellant u/s 420 IPC beyond reasonable doubt. Consequently, the appeal filed by the appellant is accepted. The impugned judgment dated 19.08.2016 and order of sentence dt. 15.09.2016 are set aside. The appellant is acquitted for the offence punishable u/s 420 IPC. The Trial Court Record be sent back immediately along with the copy of this order. Appeal file be consigned to record room after due compliance.”

10. By order dated 24 May 2021, the DA, accepting the Inquiry Report dated 24 November 2003, dismissed the respondent from service.

11. The appeal, preferred against the said decision by the respondent, was also dismissed by the Appellate Authority on 20 September 2021.

12. Aggrieved thereby, the respondent approached the Central Administrative Tribunal<sup>6</sup> by way of OA 2317/2021<sup>7</sup>.

13. It was contended by the respondent before the learned Tribunal that in view of Rule 12 of the Delhi Police (Punishment and Appeal) Rules, 1980<sup>8</sup>, he was entitled to be reinstated.

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<sup>6</sup> “the Tribunal”, hereinafter

<sup>7</sup> **Krishan Kumar v Delhi Police & Anr.**

<sup>8</sup> “DPPAR” hereinafter



2024:DHC:9662-DB



**14.** The learned Tribunal has found favour with the submission of the respondent and has, by the impugned judgment dated 5 April 2024, allowed OA 2317/2021 and has after quashing the punishment awarded by the petitioner on the respondent as well as dismissal of the appeal of the respondent thereagainst, directed the respondent to be reinstated in service with effect from the date of his dismissal with all consequential benefits in accordance with the applicable rules and regulations.

**15.** Aggrieved thereby, the Delhi Police has petitioned this Court under Article 226 of the Constitution of India.

**16.** We have heard Mr. Viplav Acharya, learned counsel for the petitioner and Mrs. Avnish Ahlawat, learned counsel for the respondent.

**17.** Mr. Acharya, learned counsel for the petitioner, submits that the case of the respondent was covered by Rule 12(a) of the DPPAR and that the Tribunal erred in holding otherwise. According to Mr. Acharya, the acquittal of the respondent by the learned Special Judge was on benefit of doubt and amounted, therefore to an acquittal on “technical grounds” within the meaning of Rule 12(a) of the DPPAR. Resultantly, the respondent was not entitled to be reinstated in service and the Tribunal erred in holding otherwise.



2024:DHC:9662-DB



## Analysis

18. We are unable to accept the submission of Mr. Acharya.

19. The position of law regarding the concept of acquittal on technical grounds within the meaning of Rule 12(a) of the DPPAR is no longer *res integra*. The legal position in this regard stands elucidated by the Division Bench of this Court in ***George N.S. v Commissioner of Police***<sup>9</sup>, ***Ex. CT. (CRPF) Prem Kumar Singh v UOI***<sup>10</sup> and ***Additional Commissioner of Police Security v Dinesh Kumar***<sup>11</sup>.

## George

20. In ***George***, the petitioner George was a Constable in the Delhi Police. An FIR was lodged against him under Sections 384 and 506 of the IPC on the charge of having attempted to extort money by posing as a gangster. He was arrested. Departmental disciplinary proceedings were also initiated against him on the same allegations. During the pendency of the disciplinary proceedings, George was acquitted in the criminal case by the learned Metropolitan Magistrate<sup>12</sup>, who found that the prosecution had failed to lead any

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<sup>9</sup> 183 (2011) DLT 226

<sup>10</sup> 2019 SCC OnLine Del 7563

<sup>11</sup> 2023 SCC OnLine Del 2189

<sup>12</sup> “the learned MM” hereinafter



evidence except of one witness, who did not turn up for cross-examination. For want of evidence against him, George was, therefore, acquitted by the learned MM. In the disciplinary proceedings, however, the charge against George was found to have been proved, and he was dismissed from service. The appeal, against the said order, preferred by George, was also rejected. George moved the Tribunal, which dismissed his OA. Against the said decision, George moved this Court under Article 226 of the Constitution of India.

**21.** This Court noted, in para 5 of the report, that the issue before it involved the interpretation of Rule 12 of the DPPAR.

**22.** On whether the acquittal of George by the learned MM could be said to have been on “technical grounds” and, therefore, whether Rule 12(a) of the DPPAR would be applicable, this Court held as under:

“10. Rule 12 of the 1980 Rules came up for interpretation before a Division Bench of this Court in *Government of NCT of Delhi v Rajpal Singh*<sup>13</sup>. The Hon'ble Bench dealing with the issue held that in terms of Rule 12, a delinquent officer cannot be punished departmentally if on the same charge he has been acquitted by a criminal court. The Bench also referred to Section 21(3) of the Delhi Police Act and in terms thereof held that criminal prosecution is not barred even if the delinquent officer is departmentally proceeded with, though it was a case where the criminal court had acquitted the accused respondent. It was further observed that the power for initiation of departmental proceedings could be exercised by the appellants only when any of the exceptions as provided in Rule 12 is satisfied, and that there could be no two opinions to the fact that both departmental and criminal

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<sup>13</sup> 2002 SCC OnLine Del 406



proceedings can be initiated simultaneously. But so far as a constable of Delhi Police is concerned, it was observed, there is a specific statutory rule which bars initiation of departmental proceedings after acquittal in a criminal case to which certain exceptions are provided in the nature of Clauses (a) to (e) and, therefore, under the substantive provision, no departmental proceedings could be initiated once the respondent was acquitted by the criminal court. This view was reiterated by this Court in its decision dated 21.4.2005 in Writ Petition (C) No. 4431 to 4433 of 2005 in the matter of **Government of NCT of Delhi v Satya Dev Singh**. Petition for Special Leave to Appeal filed against the judgment of this Court was dismissed by the Hon'ble Supreme Court vide order dated 21.11.2005.

11. Thus, it would be essential to see as to whether the acquittal recorded by learned MM was on technical ground or not. It may be reiterated that the petitioner was charge-sheeted vide FIR No. 351 in the year 1991. The prosecution has failed to examine before the criminal court not only the witnesses Dr. Rajeev Sharma & Ms. Licy, but also the other witnesses who were police officials. The court repeatedly adjourned the case for the prosecution evidence, but no efforts were seen to have been made by the prosecution in leading evidence. Ms. Licy, whose examination-in-chief was recorded, was never produced for her cross examination. Even the case property, the plain paper notes, were also never produced. *Left to this situation, the Court had no option, but to close the evidence and record acquittal stating that the prosecution has not been able to prove its case beyond reasonable doubt. The recording of acquittal being clear, it cannot be said to be based on technical ground.*

12. *The acquittal on account of prosecution failing to prove its case beyond reasonable doubt or on account of lack of evidence or no evidence cannot be termed as acquittal on technical ground. Such grounds i.e. technical ground, would be, to illustrate a few, limitation which has now been prescribed by recent amendment in Cr.P.C or trial without obtaining sanction as required under Section 197 Cr.P.C in cases where it is required and the trial being held without obtaining such sanction. If the legislature intended that acquittal on account of benefit of doubt or prosecution failing to prove a case beyond reasonable doubt etc. were not to be a bar in the departmental proceedings, it would have so specifically provided as Exception in Rule 12. The legislature could not be oblivious of the situation as mentioned above, particularly when*



*we know that most of the acquittals are based on the failure of the prosecution to prove the case beyond reasonable doubt or on account of benefit of doubt. The legislative wisdom only refers to acquittal on technical grounds as one of the exceptions for holding departmental proceedings. By any means we cannot hold that failure of the prosecution to lead evidence per se, would amount to acquittal on technical ground. The acquittal resulting on account of prosecution not leading evidence or leading insufficient evidence would definitely stand on different footing than acquittal resulting on technical ground. In the former case, the acquittal would be clean acquittal and even the words like “benefit of doubt” or “failing to prove beyond reasonable doubt” would be superfluous. The petitioner was acquitted by learned MM because there was no evidence led by the prosecution for many years and even the case property was also not produced for any justifiable reason. Such acquittal could not be said to be on a technical ground since the charges were not proved and the decision was arrived at on the basis of no evidence on record. A Division Bench of Punjab and Haryana High Court in **Bhag Singh v Punjab and Sind Bank**<sup>14</sup>, held that where the acquittal is for want of any evidence to prove the criminal charge, mere mention of “benefit of doubt” by a criminal court is superfluous and baseless and such an acquittal is an “honourable acquittal”. Another Division Bench of Punjab and Haryana High Court in **Shashikumari v Uttari Haryana Biji Vitran Nigam**<sup>15</sup>, has taken the same view. The instant case, however, appears to be on a better footing. Thus, we have no hesitation in arriving at a conclusion that exception (a) to the prohibition was not attracted in the present case.”*

This decision, rendered by a coordinate Division Bench of this Court and, therefore, binding on us, therefore, clearly delineates the contours of the expression “on technical grounds” as employed in Rule 12(a) of the DPPAR. Acquittal on benefit of ground, or for lack of evidence, or other such grounds, does not constitute acquittal on “technical grounds.”

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<sup>14</sup> 2006 (1) SCT 175

<sup>15</sup> 2005 (1) ATJ 154



2024:DHC:9662-DB



23. Plainly said, an acquittal can be said to be on “technical grounds” only where it is not on merits, but for failure to comply with some mandatory technical requirement. The Court, in such a situation, has not expressed its view on whether the case against the accused has, or has not, been proved by the prosecution. The accused stands discharged, not on merits, but because of failure to comply with some technicality. This, in our view, is the easiest understanding of the expression “on technical grounds” as contained in Rule 12(a) of the DPPAR.

***Prem Kumar Singh***

24. In ***Prem Kumar Singh***, the petitioner Prem Kumar Singh<sup>16</sup> was charged with having stolen a motorbike. An FIR was registered against him and he was arrested. In the criminal case that followed, Prem was acquitted by the learned Chief Judicial Magistrate “due to lack of sufficient and solid evidence”. Prem, who had been dismissed from service with the Central Reserve Police Force<sup>17</sup> in the interregnum, sought reinstatement on the ground of his acquittal.

25. The Division Bench of this Court framed the issue that arose for consideration before it as “whether Prem Kumar Singh’s acquittal by the Criminal Court was an honourable one but on technical grounds”.

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<sup>16</sup> “Prem” hereinafter

<sup>17</sup> “CRPF”, hereinafter



26. The Division Bench of this Court held that the acquittal of Prem could not be treated as one on “technical grounds” and, in arriving at the said conclusion relied on the earlier decision of this Court in *George v Commissioner of Police*<sup>18</sup>. Paras 31 and 32 of the report in *Prem Kumar Singh* read thus:

“31. In *George v Commissioner of Police* the Division Bench of this Court was considering a similar issue as to the effect of acquittal in a criminal trial on the same charges on which the departmental proceedings were initiated. There the discussion was in the context of Rule 12 of the Delhi Police (Punishment and Appeal), Rules 1980 which expressly contemplated action following ‘judicial acquittal’ where *inter alia* the charge failed in the criminal case ‘on technical grounds’. In that context, this Court observed:

“12. The acquittal on account of prosecution failing to prove its case beyond reasonable doubt or on account of lack of evidence or no evidence cannot be termed as acquittal on technical ground. ... If the legislature intended that acquittal on account of benefit of doubt or prosecution failing to prove a case beyond reasonable doubt etc. were not to be a bar in the departmental proceedings, it would have so specifically provided as Exception in Rule 12. The legislature could not be oblivious of the situation as mentioned above, particularly when we know that most of the acquittals are based on the failure of the prosecution to prove the case beyond reasonable doubt or on account of benefit of doubt. The legislative wisdom only refers to acquittal on technical grounds as one of the exceptions for holding departmental proceedings. By any means we cannot hold that failure of the prosecution to lead evidence per se, would amount to acquittal on technical ground. The acquittal resulting on account of prosecution not leading evidence or leading insufficient evidence would definitely stand on different footing than acquittal resulting on technical ground. In the former case, the acquittal would be clean acquittal and even the words like “benefit of doubt”

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<sup>18</sup> (2011) 183 DLT 226 (DB)



or “failing to prove beyond reasonable doubt” would be superfluous.”

32. In the present case too, the acquittal was not on technical grounds. In fact the present case stands on an even stronger footing from the point of view of the Petitioner. It is seen that there is no provision in the CRPF Rules which is in *pari materia* with Rule 12 of the Delhi Police Rules which permits departmental punishment of a delinquent officer on the same charge as in a criminal case where the criminal charge fails on technical grounds. On the other hand Rule 27(ccc) of the CRPF Rules, 1955 specifies that when a member of the force has been tried and acquitted by a criminal Court, he shall not be punished departmentally under this rule on the same charge or on a similar charge upon the evidence cited in the criminal case, whether actually led or not, without the prior approval of the Inspector General. Here even without waiting for the outcome of the criminal trial, the Petitioner was dismissed from service.”

Though it was rendered in the context of the CRPF Rules, therefore, ***Prem Kumar Singh*** endorsed the *ratio decidendi* of ***George***.

### ***Dinesh Kumar***

27. ***Dinesh Kumar***, like the present case, was a writ petition by the Delhi Police challenging the judgment passed by the Tribunal, quashing the dismissal of Dinesh Kumar from service on the ground that he had been acquitted in criminal proceedings predicated on the same allegation and that the acquittal could not be regarded as one on “technical grounds”. The precise issue that arose for consideration was framed by the Division Bench thus:

“10. The issue for consideration is whether the disciplinary proceedings can be held against respondent No. 1 on the same



2024:DHC:9662-DB



charge on identical facts in accordance with Rule 12 of Delhi Police (Punishment and Appeal) Rules, 1980 treating the acquittal of respondent No. 1 vide judgment dated February 15, 2002 by learned ASJ, on ‘technical grounds’.”

**28.** The learned Additional Sessions Judge<sup>19</sup> had, in that case, acquitted Dinesh Kumar of the charge of possessing narcotic drugs in violation of the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985, observing thus:

“...there is nothing on record to show as to how the weight of the same sent to and received by CFSL Chandigarh had increased. The same creates doubt as to the genuineness of sample sent for chemical analysis to CFSL, Chandigarh”.

**29.** In these circumstances, qua the applicability of Rule 12(a) of the DPPAR to the facts before it, the Division Bench of this Court, even while noting the fact that the learned ASJ had expressly acquitted Dinesh Kumar by granting him the “benefit of doubt”, nonetheless proceeded to hold thus:

“19. While appreciating the principle enunciated in Rule 12 of Delhi Police (Punishment and Appeal) Rules, 1980, the settled principle of issue estoppel needs to be kept in perspective that where an issue of fact has been tried by the competent court on a former occasion and a finding has been reached in favour of an accused, such a finding would constitute an estoppel or *res judicata* against the prosecution not as a bar to the trial and conviction of the accused for a different or distinct offence but as precluding the reception of evidence to disturb that finding of fact when the accused is tried subsequently even for a different offence

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<sup>19</sup> “the ASJ”, hereinafter



which may be permitted by law as held in *Masud Khan v State of Uttar Pradesh*<sup>20</sup>.

20. The fulcrum of the criminal proceedings in the present case rests on the factum of recovery of Charas from the possession of co-accused Sanjay Giri while respondent No. 1 is alleged to be driving the said scooter. Respondent No. 1 stands charged with aid of Section 29 of NDPS Act which deals with abetment or conspiracy to commit an offence.

21. *Admittedly, the benefit of doubt was extended by the learned Trial Court acquitting the petitioner, considering the fact that sample of the Charas forwarded for examination to CFSL was found to be 116.98 gms. though the sample obtained during investigation was 100 gms. Also, the benefit of non-compliance of Section 50 of the NDPS Act was extended.*

22. However, it is imperative to notice that in the cases of recovery of contraband under NDPS Act, the proceedings relating to seizure and sampling of contraband are crucial in nature, since the offences under NDPS Act attract stringent punishment. The onus lies on the prosecution to prove that the sample of the contraband seized during investigation proceedings is the same which was forwarded to CFSL for examination and there is no tampering of the same. Considerable weight is placed while appreciating evidence upon the process adopted for sampling during investigation and any unexplained discrepancy in the weight of the sample seized during investigation when compared with the quantity of the sample produced for examination at CFSL *per se* leads to an adverse inference against the prosecution unless suitably explained. Viewed from the aforesaid perspective, since no explanation appears to have come on record in the criminal proceedings, the same led to the acquittal of the accused. *In the facts and circumstances, it may be difficult to reach a conclusion that the acquittal was solely on 'technical grounds' as contended by learned counsel for the petitioner.*

23. We are of the considered view that proceedings against respondent No. 1 on the same charge based upon the evidence cited in the criminal case shall not be permissible in law. However, it may be reiterated that despite the acquittal, the disciplinary proceedings can be initiated against respondent No. 1 with regard to any other misconduct, if committed, except for the offence under

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<sup>20</sup> 1973 SCC (Cri) 1084



Section 20/29 of the NDPS Act, in respect of which the judgment of acquittal stands passed in favour of respondent No. 1.

24. During the course of proceedings, it has also been informed by learned counsel for respondent No. 1 that he has been reinstated pursuant to orders passed by the Appellate Authority in 2002 and since stands promoted.

25. For the foregoing reasons, *we agree with the findings of the Tribunal that the acquittal could not be considered on technical grounds and is to be substantially treated on the merits of the case.* Also, we do not find any grounds to interfere with the directions passed by the learned Tribunal remitting the case to the competent authority for passing appropriate orders with regard to the treatment of the intervening period from the date of dismissal to the date of reinstatement of respondent No. 1.”

30. There is, therefore, a clear and discernible difference between acquittal on benefit of doubt and acquittal on technical grounds. A finding that the charge against the accused has not been proved, whether by returning a positive finding of innocence or even – as in many cases – by terming the acquittal to be by granting “benefit of doubt”, is *ipso facto* not an acquittal “on technical grounds”.

31. We may also refer in this context on the judgment of the Supreme Court in *Ram Lal v State of Rajasthan*<sup>21</sup> in which Courts were cautioned against being swept away by the use of the words “benefit of doubt” in the operative portion of the judgment of acquittal by the Criminal Court and were advised to examine the judgment of acquittal holistically to determine for themselves as to whether the

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<sup>21</sup> (2024) 1 SCC 175



acquittal was actually on benefit of doubt or honourable.

**32.** That aspect may not, however, specifically arise in the present case, as the protocol regarding the effect of acquittal in criminal proceedings on disciplinary proceedings as contained in Rule 12(a) of the DPPAR, is distinct and different. Where there is a statutory provision dealing with such an exigency, the Court has to be guided by the statute. The question of whether acquittal was honourable, or on benefit of doubt, is not a circumstance envisaged in any of the clauses of Rule 12 of the DPPAR. Rule 12(a) does not use the expression “honourable” or “benefit of doubt”. Instead, it uses the expression, “on technical grounds”.

**33.** To repeat, there is a clear qualitative difference between an acquittal on technical grounds and an acquittal on benefit of doubt. An acquittal on technical grounds is an acquittal on the ground of nonfulfillment of some technical parameters or requirements, such as, for example, the need for obtaining sanction before launch of prosecution. Acquittal after appreciation of evidence, even if it is facially termed as acquittal on benefit of doubt is not an acquittal on “technical grounds”. The decision in *Prem Kumar Singh* amply underscores this legal position.

**34.** In the present case, a perusal of the judgment dated 25 October 2016 of the learned Special Judge, which allowed the respondent’s



2024:DHC:9662-DB



appeal and acquitted him of the charges against him, the relevant paragraphs of which stand reproduced *supra*, clearly indicates that the acquittal of the respondent could not be said to be on “technical grounds” but was on a holistic appreciation of the evidence available. The learned Special Judge has held that the evidence was insufficient to prove the charges against the respondent. This, therefore, could not be regarded as acquittal on “technical grounds”.

**35.** Clause (a) of Rule 12 of the DPPAR, therefore, does not apply.

**36.** None of the other clauses, obviously, applies, and Mr. Acharya has also not chosen to rely on any of the said clauses.

**37.** We, therefore, are in agreement with the Tribunal in its decision that, as (i) the respondent stands acquitted of the criminal charges against him, (ii) the dismissal of the respondent from service was consequent on disciplinary proceedings predicated on the very same allegations and (iii) the acquittal of the respondent cannot be regarded as an acquittal on “technical grounds”, the respondent was, by operation of Rule 12 of the DPPAR, entitled to reinstatement in service with consequential benefits.

**38.** Resultantly, we find no error in the impugned judgment of the Tribunal, which is upheld in its entirety.



2024:DHC:9662-DB



39. The writ petition is accordingly dismissed with no orders as to costs.

**C.HARI SHANKAR, J.**

**MANOJ JAIN, J.**

**DECEMBER 12, 2024**

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*Click here to check corrigendum, if any*