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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**(205) CWP-10317-2005 (O&M)
Date of Decision : February 25, 2025**

**The Hero Kalan Co-operative Agricultural Service Society Ltd
and another .. Petitioners**

Versus

**The Presiding Officer, Labour Court, Bathinda and another
.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioners.

Mr. Preetwinder Singh Dhaliwal, Advocate,
for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Award dated 19.04.2005 (Annexure P-1) passed by the Labour Court by which, the claim of the respondent-workman so as to challenge the order dated 16.05.1986, has been allowed.

2. The averments of the petitioners in the present petition is that the services of the respondent-workman were terminated on 16.05.1986 (Exhibit M/18) after seeking his reply dated 12.05.1986, against charge-sheet dated 02.05.1986 (Exhibit M-16), following which departmental proceedings was carried on, by way of which, petitioner workman's service was terminated and consequently, an FIR under Sections 406, 408 IPC, 1860 dated 02.07.1987 was also registered against the employee and that



the demand notice was raised by the employee concerned after a period of 14 years of the termination of his service, which fact has been ignored by the Labour Court in the impugned Award so as to hold that once the employee concerned has been acquitted in a criminal proceedings before a Court of law, the order terminating the services of the workman after conducting due departmental proceedings cannot be sustained and consequently, by way of Award dated 19.04.2005 passed by Labour Court, the workman has been reinstated in service with continuity with 50% back wages from the date of demand notice i.e. 24.04.2000. Hence, it is the prayer of the petitioner that the Award dated 19.04.2005 (Annexure P-1) passed by the Labour Court may kindly be set aside.

3. Upon notice of motion, the respondent-workman has appeared and learned counsel for respondent-workman submits that though, the departmental proceedings were initiated against the respondent-workman and after holding the departmental proceedings and proving the allegations alleged against the respondent-workman, he was dismissed but as on same allegations, criminal proceedings were also initiated against him wherein, the allegations alleged against him were not proved and thus, thereafter, the workman approached the Labour Court claiming the benefit of reinstatement in service along with continuity in service with 50% back wages, which has been allowed by the Labour Court vide it's impugned order hence, the writ petition filed by the Co-operative Society may kindly be dismissed.

4. I have heard learned counsel for the respondent-workman and have gone through the record with his able assistance.



5. It is worthwhile to note here that the respondent-workman was proceeded against in departmental proceedings and consequently a charge-sheet was issued to him on 02.05.1986. After filing the reply against the charge-sheet, the same was not accepted and consequently the departmental enquiry was conducted and in the enquiry, the allegations against the respondent-workman were proved and his services were ultimately terminated vide order dated 16.05.1986 (Exhibit M/18).

6. The respondent-workman never challenged the said order till serving of the demand notice on 24.04.2000 i.e. after a period of 14 years which criminal proceeding initiated against him by way of FIR dated 02.07.1987 which came to an end by exonerating the respondent-workman. The said demand notice has been adjudicated upon by Labour Court and the termination has been held to be bad solely on the ground that because in the criminal proceedings, which got initiated on the basis of same act on the basis of which respondent-workman's services got terminated, the respondent-workman has been acquitted.

7. The question which arise for contemplation and adjudication before this Court is whether, the departmental proceedings which have attained finality can be re-opened or can be treated to be bad upon an acquittal of the employee subsequent to the order of punishment under the departmental proceeding.

8. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.6183 of 2010 titled as Union of India and others vs. Sitaram Mishra and another, decided on 11.07.2019,*** it has been decided that the departmental proceeding which has been held



against an employee and upon which, an action has been taken, the same cannot be treated to be vitiated merely because on the similar facts, the employee concerned was proceeded against in the criminal proceedings and has been acquitted therein. The acquittal in the criminal case is not to effect the decision taken in disciplinary proceedings, which have attained finality. The relevant paragraph 12 of the said judgment is as under:-

“12. The second ground, which has weighed with the High Court, is equally specious. A disciplinary enquiry is governed by a different standard of proof than that which applies to a criminal case. In a criminal trial, the burden lies on the prosecution to establish the charge beyond reasonable doubt. The purpose of a disciplinary enquiry is to enable the employer to determine as to whether an employee has committed a breach of the service rules. In the present case, the learned Single Judge has adverted to Circular Order No.16/85, which inter alia imposed the following obligation upon the members of the CRPF:

“(c) strict fire discipline should be enforced by supervisory staff at all levels. In other words, loaded, and cocked weapons should not be kept by the troops while in barracks/non operational places.

Severe disciplinary action must be taken against the defaulters.” The fact that the first respondent was acquitted in the course of the criminal trial cannot operate ipso facto as a ground for vitiating the finding of misconduct which has been arrived at during the course of the disciplinary proceedings. The High Court, in our view, has drawn an erroneous inference from the decision of this Court in [Capt M Paul Anthony v Bharat Gold Mines Ltd](#)². The High Court adverted to the following principle of law laid down in the above judgment:



“...While in the departmental proceedings the standard of proof is one of preponderance of the probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubts. The little exception may be where the departmental proceedings and the criminal case are based on the same set of facts and the evidence in both the proceedings is common without there being a variance.”

9. It is a settled principle of law that for proving an allegation in the departmental proceedings, the standard of proof required is ‘preponderance of the probability’ whereas, for proving an allegation in the criminal proceedings, the standard of proof required is beyond reasonable doubt.

10. Even if, a scenario like this happens where in the criminal proceedings, the charges have not been proved beyond reasonable doubt and same gets proved in departmental proceeding, it cannot be said that any charge proved in the departmental proceedings, stand vitiated just because the same could not be proved in the criminal proceedings.

11. In the present petition, the Labour Court vide its order dated 19.04.2005 (Annexure P-1), without there being any valid justification and merely on the basis that the petitioner got acquitted in the criminal case, held the disciplinary proceedings to be vitiated without there being any challenge to the same.

12. Further, the Labour Court has failed to appreciate the fact that the dismissal of respondent-workman from service was on 16.05.1986 and the demand notice was issued on 24.04.2000. On the said date i.e. 24.04.2000, even challenging the order of termination was barred in the Civil Court. Once, the remedy sought by respondent-workman before the

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civil Court was barred beyond limitation, no action could have been taken by the Labour Court so as to set aside the said order and direct reinstatement with continuity of service along with 50% back wages from the date of demand notice i.e. 24.04.2000.

13. Keeping in view the totality of the circumstances, the impugned Award of the Labour Court is decided to be perverse to the settled principle of law noticed hereinbefore and thus cannot be sustained in the eyes of law and is accordingly set aside.

14. The present writ petition is allowed in above terms.

15. It is also made clear that any amount which has already been paid to the respondent-workman under Section 17-B of the Industrial Disputes Act, will not be recovered from the workman concerned.

16. Civil miscellaneous application pending if any, also stands disposed of.

February 25, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No