



LPA-54-2018 (O&amp;M)

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

LPA-54-2018 (O&amp;M)

Food Corporation of India and others

....Appellants

Versus

Ved Prakash Malhotra

...Respondent

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**Reserved on: 23.09.2025****Pronounced on: 19.12.2025****Uploaded on: 19.12.2025**

*Whether only operative part of the judgment is  
pronounced or the full judgment is pronounced: full judgment*

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**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA  
HON'BLE MR. JUSTICE ROHIT KAPOOR**

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Present: Mr. Ravi Kamal Gupta, Advocate  
for the appellants.

Mr. Vipul Sachdeva, Advocate  
for the respondent.

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**ROHIT KAPOOR, J.**

1. Challenge in the present appeal filed under Clause X of the Letters Patent Act, is to the judgment and order dated 26.09.2017 passed by the learned Single Judge in CWP-4231-2016, whereby the writ petition filed by the respondent has been partially allowed and the order dated 10.11.2015 (Annexure P-9) declining to treat the period of absence from duty on account of suspension and dismissal, as period spent on duty, has been set aside. The appellants have been directed to regulate the suspension period from 07.04.2005 to 24.02.2006 and 27.08.2009 to 31.12.2009, as period spent on duty for all purposes. It has been further directed that if the respondent-petitioner submits representation with reference to any service benefits like promotion etc., the same shall be



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considered by the appellants in accordance with law and speaking order is required to be passed within a period of three months from the date of such representation.

2. The relevant facts as required to be noticed for adjudication of the *lis* between the parties are that the respondent-petitioner while working as Assistant Manager (Electrical) with the appellant-Food Corporation of India (hereinafter referred to as 'Corporation'), was caught red-handed in a trap laid by the Anti-Corruption Bureau, Punjab on the allegations that he had demanded Rs.10,000/- as illegal gratification for awarding a contract for maintenance and repair of electric works of the Corporation at Adampur, Jalandhar. An FIR was registered under section 7 read with section 13(2) of the Prevention of Corruption Act, 1988 by the Vigilance Bureau, Phase-I, Mohali, Punjab.

3. The respondent was placed under deemed suspension from the date of his detention i.e. from 07.04.2005 to 24.02.2006. The suspension was revoked vide order dated 17.02.2006. Upon conviction of the respondent vide judgment dated 27.08.2009, he was again suspended from 27.08.2009 to 21.12.2009, and vide an order of even date, he was dismissed with immediate effect, without holding any departmental enquiry, on the ground of his conviction in the criminal case involving moral turpitude, leading to forfeiture of his gratuity. It was ordered that the period of suspension will be treated as period not spent on duty. The departmental appeal filed by the respondent against the said order, was dismissed on 14.02.2012. The respondent-petitioner attained the age of superannuation on 31.12.2009.

4. The criminal appeal filed by the respondent against his conviction, was allowed by the learned Single Judge of this Court and he was acquitted vide



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judgment dated 20.08.2014. After the acquittal, he filed a departmental review for setting aside the dismissal order on 25.09.2014 and served a legal notice for getting the same decided expeditiously. Aggrieved of the inaction of the Corporation, he approached this Court by filing CWP No.12567 of 2015, which was disposed of vide order dated 29.06.2015, with a direction to the competent authority of the Corporation to take a decision on the legal notice and to pass a speaking order.

5. In compliance of the afore-mentioned directions, the competent authority of the Corporation passed a speaking order dated 10.11.2015 (Annexure P-9) wherein it was held that the offence for which the petitioner was punished, involves moral turpitude and thus his dismissal from service upon his conviction was not unjustified. By taking note of nature of charge brought against the respondent-petitioner and by observing that he was acquitted by giving benefit of doubt, it was held that the period of absence from duty during the period of suspension and dismissal cannot be treated as period spent on duty, nor there is any ground for reinstatement as he had already attained the age of superannuation on 31.12.2009, during the pendency of criminal appeal. As regards the question of terminal benefits and the claim of the respondent-petitioner for promotion, it was ordered that the same would be governed by the extant rules and regulations. Aggrieved from the said order, the respondent-petitioner approached the Writ Court under Article 226 of the Constitution of India.

6. The learned Single Judge, after noticing the rival contentions of the parties, partially allowed the writ petition No.CWP-4231-2016 vide judgment dated 26.09.2017, with the following observations:



*“5. Short question for consideration in the present petition is whether the petitioner is entitled for regularisation of suspension period as duty or not? Having regard to the fact that petitioner was placed under suspension with reference to filing of FIR for the offences under the P.C. Act is with reference to during the course of the employment of the petitioner, in other words, while discharging the duties of the post. Thus, the respondents have invoked the suspension provision with reference to alleged charge that the petitioner is involved for the offences under P.C. Act and it is not a case of private complaint as noticed in **Harbhajan Singh's** case (Supra) where he was involved in the offences under Section 376(g) of IPC. Therefore, decision rendered in **Harbhajan Singh's** case (supra) is distinguishable with reference to the facts of the present case that the petitioner is involved in the offences of P.C.Act. Moreover, placing the petitioner under suspension and dismissal from service is with reference to criminal proceedings. Since the petitioner is acquitted in criminal case on 20.08.2014, therefore, respondents cannot say that he is not entitled for regularisation of the suspension period. Annexure P-9 is hereby set aside. The respondents are hereby directed to regulate the suspension period from 07.04.2005 to 24.02.2006 and 27.08.2009 to 31.12.2009 as a period spent on duty for all purposes. Further if the petitioner submits representation with reference to any service benefits like promotion etc. the same shall be considered by the respondents in accordance with law and pass speaking order within a period of 3 months from the date of representation.*

*6. With this observation, CWP stands allowed in part.”*

7. During the pendency of the present appeal, the respondent unfortunately passed away, and is now represented through his legal heirs.



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8. Learned counsel for the appellants has assailed the decision passed by the learned Single Judge on the ground that although the specific contention of the appellants, regarding rejection of claim of respondent in consonance with the Food Corporation of India (Staff Regulations), 1971 (hereinafter referred to as '1971 Regulations'), was raised and also noticed, however no finding in this regard has been returned. It is submitted that the learned Single Judge ought to have taken into consideration the above said regulations, which clearly stipulate that the competent authority of the appellants is to decide how the period of absence from duty will be treated and to what extent pay and allowances are to be paid to an employee on reinstatement after dismissal, etc. It is contended that without finding any perversity or illegality in the speaking order passed by the authority, the learned Single Judge has set aside the same, merely on the ground that respondent-petitioner stood acquitted in the criminal matter.

9. It is urged that the impugned judgment suffers from the vice of non-application of mind, since the delinquent employee was acquitted by giving him benefit of doubt and it was not a case of acquittal on merits or that of an honorable acquittal. It is contended that the accusations against the respondent-petitioner were serious and pertained to moral turpitude, and under such circumstances, the employer cannot be blamed for his absence during the period of suspension and dismissal upon conviction. It is further submitted that since the respondent had attained the age of superannuation during the pendency of criminal proceedings, therefore, he cannot be considered for promotion. Reliance is placed upon the judgment passed by the Hon'ble Supreme Court in the case of '*Greater Hyderabad Municipal Corporation versus M. Prabhakar Rao*', (2011) 8 SCC 155, to contend that even where the employee is acquitted



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of the charges in the criminal trial for lack of evidence or otherwise, it is for the competent authority to form its opinion whether the suspension of the employee was wholly unjustified, and so long as such opinion of the authority was a possible view in the facts and circumstances of the case and on the materials before it, such opinion would not be interfered with by the Court. It is therefore, prayed that the decision of the learned Single Judge be set aside, since the same is vitiated on account of non-appreciation of the applicable regulations and the settled position of law.

10. *Per contra*, learned counsel appearing on behalf of the respondent has vehemently repelled the submissions made on behalf of the appellants, and it is argued that once the respondent stood acquitted in the criminal appeal and the decision of the appellate Court had attained finality, he could not be denied his rightful claim for grant of benefits by treating the period of suspension and dismissal, as period spend on duty, since the respondent was always ready and willing to work and was prevented from discharging his duties for reasons not attributable to him.

11. It is contended that perusal of the judgment of acquittal would clearly show that the Court found the entire version put forth by the prosecution as doubtful, after considering the relevant facts involved. Our attention is drawn to the findings of the learned appellate Court, to contend that the acquittal was not based upon the witnesses turning hostile or not appearing before the concerned Court, rather the same was on account of the fact that no material evidence whatsoever was found against the respondent-petitioner.

12. It is argued that the judgment relied upon by the appellants has no applicability in the matter, and the issue stands squarely covered by the decisions



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in the cases of **Shiv Kumar Goyal vs. State of Haryana and others, 2007 (2) RSJ 119; Jagmohan Lal vs. State of Punjab and another, AIR 1967 P&H 422; and Haryana Vidhyut Parsaran Nigam vs. Presiding Officer, 2014 (1) RSJ 613**. It is contended that the respondent was also entitled to be promoted as General Manager from August, 2009, i.e. the date from which his junior Mr. R.N. Bhargva was promoted on the said post. It is lastly urged that the appeal be dismissed being devoid of any merit.

13. We have heard the learned counsel for the parties and have gone through the material available on record, with their able assistance.

14. The short question that falls for our consideration is whether the decision of the competent authority refusing to treat the period of suspension as period spent on duty, warrants any interference?

15. At the outset, we would like to observe that we find merit in the submission of the learned counsel for the appellants, that the relevant regulations were required to be taken into consideration while taking a decision regarding how the period of absence from duty is to be treated, after the respondent's acquittal in the criminal case. It is, therefore, apposite to examine Regulation 66(8)(a) & (b) of the 1971 Regulations, which is reproduced as under:

*“(8) When the suspension of an employee is held to be unjustified or not wholly justified; or when an employee has been dismissed or suspended is reinstated, the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, may grant to him for the period of his absence from duty:*

*(a) if he is honourably acquitted, the full pay and allowances other than conveyance allowance to which he would have been entitled, if he had*



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*not been dismissed or suspended, less the subsistence grant;*

*(b) if otherwise, such proportion of pay and allowances other than conveyance allowances as the disciplinary, appellate or reviewing authority may prescribe. In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b) it will not be treated as a period spent on duty unless the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, so directs.”*

16. Careful perusal of the above regulation would show that the competent authority is vested with the power to form an opinion whether the suspension was justified or unjustified or not wholly justified. If it finds it to be justified then no benefits are to be granted for the suspension period. However, in the case where the authority finds it to be unjustified or not wholly justified, then in the case of ‘honourable acquittal’ pay and allowance as per Regulation 66 (8) (a) is to be paid and the period of absence from duty has to be treated as period spent on duty. In the cases where the acquittal is granted by giving benefit of doubt, regulation (b) would come into play and it will be open to such authority to direct the payment of proportional pay and allowances as it may prescribe. The period of absence will not be treated as period spent on duty, unless the concerned authority so directs.

17. Perusal of the order dated 10.11.2015 (Annexure P-9) passed by the concerned authority would show that the decision to treat the period of suspension as period not spent on duty is based upon the premise that the acquittal of the respondent vide judgment dated 20.08.2014 was allowed by giving him the benefit of doubt. By holding that such acquittal would not come





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within the meaning of an honourable acquittal as stipulated under Regulation 66(8)(a) of the 1971 Regulations, the authority has observed that in view of the nature of charge brought against the respondent and since the acquittal in appeal was by giving him the benefit of doubt, there was no justification to treat the period of absence as period spent on duty.

18. In this backdrop, it becomes imperative to examine the relevant extracts of the order of acquittal dated 20.08.2014, which reads as under:

*“However, a careful perusal of the evidence on record reveals that the plea taken by the appellant, when examined under Section 313 Cr.P.C., appears to be probable. The plea taken by the appellant that he had been falsely involved in this case at the instance of the complainant inspires confidence and renders the prosecution case doubtful. Let us examine the evidence available on the file in this regard.*

*In the present case, file in question was not taken in possession by the DSP at the time of raid. Rather, the file in question was taken in possession from PW5 Karamvir vide memo Exhibit PD on the day of raid.*

*PW5 Karamvir had categorically deposed that the file in question was taken in possession from him and memo Exhibit PD was prepared in this regard. He has further deposed that on 6.4.2005, the tender was accepted by D.M. Electrical Ved Parkash (appellant). He, in his cross-examination, deposed that the file in question was signed by the appellant on 6.4.2005.*

*In case, the version put forth by the complainant is liable to be believed then the file should have been taken in possession from the appellant. Thus, it is evident that the appellant had already done his job on 6.4.2005. Therefore, there was no occasion for the appellant to have*



*demanded or accepted bribe on 7.4.2005 as he had already done the needful. Complainant PW6, in his cross examination, admitted that he had been imposed penalty by the appellant as his work was not found up to the mark. The said penalty was imposed about 2-3 months prior to the raid. Therefore, the plea taken by the appellant that he had been falsely involved in this case by the complainant, as he had penalized him (complainant), gains significance. Thus, it is evident that before the raid, complainant had been penalized by the appellant. Therefore, the complainant had an axe to grind against the appellant.*

*The fact that the complainant had grudge against the appellant and the fact that the appellant had already done his job on the day of raid, renders the prosecution case doubtful. It is possible that the appellant might have been falsely involved in this case, at the instance of the complainant, who had been penalized by the appellant a couple of months before the raid in question. After the job was done by the appellant, the complainant involved the appellant in this case by approaching the Vigilance Authority. Moreover, the tainted currency notes were recovered from the drawer of the table of the appellant. It is probable that the complainant might have kept the currency notes in the drawer of the table of the appellant.*

*It is a settled proposition of law that the prosecution is required to prove its case beyond the shadow of reasonable doubt. Whenever there is doubt in the prosecution case, the benefit of the same has to be extended to the accused.*

*Since in the present case, the prosecution case is not free from doubt, appellant is liable to be acquitted of the charges framed against him by giving him benefit of doubt.*



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*Accordingly, this appeal is allowed. The impugned judgment/order dated 27.8.2009 are set aside. Appellant is acquitted of the charge framed against him by giving him benefit of doubt.”*

19. From perusal of the above judgment, it emerges that the learned Single Judge has, after carefully examining the evidence and material available on record, come to a categorical conclusion that the respondent is not guilty. We have therefore no doubt in our minds that the learned counsel for the respondent is correct in urging that, in the present case, it is not as if the respondent has been let off on account of witnesses turning hostile or not appearing before the concerned Court, but he has been acquitted only because no material evidence was found against him. In view thereof, it cannot be said that the present case was not a case of honourable acquittal, and the mere use of the words ‘benefit of doubt’ by the appellate Court, could not be conclusive *per se*. In any event, the words ‘benefit of doubt’ as used in the order passed by the learned Single Judge of this Court, cannot be literally taken on the face of it as it is, but have to be interpreted as per the factual matrix involved in each case. In this regard, we may refer to the relevant extracts of the judgment of the Hon’ble Supreme Court in the case of **‘Union of India and others vs. Methu Meda, (2022) 1 SCC 1’**, which read as under:

*10. While addressing the question, as argued the meaning of expression “acquittal” is required to be looked into. The expressions “honourable acquittal”, “acquitted of blame” and “fully acquitted” are unknown to the Code of Criminal Procedure or the Penal Code, 1860. It has been developed by judicial pronouncements. In State of Assam v. Raghava Rajgopalachari [1967 SCC OnLine SC 1], the effect of the word “honourably acquitted” has been considered in the context of the Assam*



*Fundament Rules (FR) 54(a) for entitlement of full pay and allowance if the employee is not dismissed. The Court has referred to the judgment of Robert Stuart Wauchope v. Emperor [1933 SCC OnLine Cal 369], in the context of expression “honourably acquitted”, Lord-Williams, J. observed as thus:*

*“The expression “honourably acquitted” is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra-judicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what the government authorities term “honourably acquitted”.”*

*11. In R.P. Kapur v. Union of India [AIR 1964 SC 787], it is observed and held by Wanchoo, J., as thus :*

*“9. ... Even in case of acquittal, proceedings may follow where the acquittal is other than honourable.”*

*12. In view of the above, if the acquittal is directed by the court on consideration of facts and material evidence on record with the finding of false implication or the finding that the guilt had not been proved, accepting the explanation of accused as just, it be treated as honourable acquittal. In other words, if prosecution could not prove the guilt for other reasons and not “honourably” acquitted by the court, it be treated*



*other than “honourable”, and proceedings may follow.*

*13. The expression “honourable acquittal” has been considered in S. Samuthiram [State v. S. Samuthiram, (2013) 1 SCC 598] after considering the judgments in RBI v. Bhopal Singh Panchal (1994) 1 SCC 541 and R.P. Kapur AIR 1964 SC 787, Raghava Rajgopalachari 1967 SCC OnLine SC 1; this Court observed that the standard of proof required for holding a person guilty by a criminal court and enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing guilt of the accused is on the prosecution, until proved beyond reasonable doubt. In case, the prosecution failed to take steps to examine crucial witnesses or the witnesses turned hostile, such acquittal would fall within the purview of giving benefit of doubt and the accused cannot be treated as honourably acquitted by the criminal court. While, in a case of departmental proceedings, the guilt may be proved on the basis of preponderance of probabilities, it is thus observed that acquittal giving benefit of doubt would not automatically lead to reinstatement of candidate unless the rules provide so.”*

20. Undoubtedly, the power to form an opinion regarding justification or otherwise of suspension of an employee and decision regarding treatment of suspension period vests upon the competent authority, as per Regulation 66(8)(a) & (b) of the 1971 Regulations, and the same would not be interfered with as a matter of routine. However, that does not mean that such opinion or decision, would not be amenable to judicial review, even if it is found in a given case that the same is based upon non-application of mind, incorrect appreciation of facts involved; is arbitrary; or is not a ‘possible view’. That cannot be the correct



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import of the law laid down in the case of *Greater Hyderabad Municipal Corporation supra* as sought to be projected by the Appellants. The powers of the authority cannot be unbridled and it will always be open to a Writ Court to examine, if the same warrants interference in the facts and circumstances of a given case.

21. We have already held that the judgment of acquittal passed by the learned Single Judge was not based upon the witnesses turning hostile or not turning up, rather the court found the plea taken by him inspires confidence. Therefore the opinion formed by the concerned authority, cannot be said to be a 'possible view'.

22. We are therefore of the considered opinion, that the respondent-petitioner ought to have been granted the benefits in terms of Regulation 66(8)(a) of the 1971 Regulations, and therefore, we do not find any reason to interfere with the relief granted by the learned Single Judge.

23. As a result thereof, the appeal is dismissed, being bereft of any merit.

24. Pending applications, if any, shall stand disposed of accordingly.

**(ASHWANI KUMAR MISHRA)**  
**JUDGE**

**(ROHIT KAPOOR)**  
**JUDGE**

**DECEMBER 19, 2025**

*mohit goyal*

|                           |   |          |
|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable        | : | Yes / No |