



2025:DHC:6608-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 04.07.2025

Pronounced on: 08.08.2025

+ W.P.(C) 7892/2023
SATYA PAL SINGH

.....Petitioner

Through: Mr. Anil Nariya, Ms. Sumita
Hazarika, Mr. Prakhar Gupta,
Ms. B. Naaz Jain, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Piyush Beriwal,
Ms. Jyotsana Vyas, Ms. Amisha
P. Dash, Advs. for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

RENU BHATNAGAR, J.

1. The present writ petition has been filed by the petitioner, invoking the extraordinary jurisdiction of this Court under Article 226 read with Article 227 of the Constitution of India, assailing the Order dated 11.01.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred as 'Tribunal') in the Original Application No. 3263/2016 (hereinafter referred to as, 'OA'), titled ***Satya Pal Singh v. Union of India, through the Secretary, Ministry of Defence & Ors.***, whereby the learned Tribunal dismissed the OA filed by the petitioner, finding no



infirmity in the Orders dated 23.09.1997 and 28.08.2015 passed by the Disciplinary Authority and the Appellate Authority, respectively, *vide* which the petitioner had been awarded the punishment of compulsory retirement from service with effect from 30.09.1997.

FACTS OF THE CASE

2. The relevant facts for adjudication of the present petition as emerging from the record are that the petitioner/Sh. Satya Pal Singh was initially appointed as a Clerk in the office of the Controller of Defence Accounts (Air Force), Dehradun (hereinafter referred to as, 'CDA (AF) Dehradun') and was subsequently promoted to the post of Auditor.

3. While serving in the office of CDA (AF) Dehradun, *vide* Judgement dated 31.01.1997, the petitioner was convicted by the Court of Chief Judicial Magistrate, Saharanpur, U.P., under Sections 406/498A of the Indian Penal Code, 1860 (hereinafter referred to as, 'IPC'), and was sentenced to Rigorous Imprisonment (hereinafter referred to as, 'RI') for one year along with a fine of Rs. 1000/- for the offence under Section 498A IPC, in failure whereof the period of imprisonment would further extend for another 9 months, and RI for 6 months along with a fine of Rs. 5,000/- for the offence under Section 406 IPC.

4. On taking notice of the above, the Disciplinary Authority, viz. CDA (AF) Dehradun, after following the due procedure under Rule 19 (i) of CCS (CCA) Rules, 1965, *vide* Order dated 23.09.1997, imposed upon him the penalty of 'Compulsory Retirement' with effect from



30.09.1997. This Order was upheld by the Appellate Authority, viz. Controller General Defence Accounts, *vide* Order dated 23.07.1998.

5. In the interregnum, the petitioner filed an appeal against the Judgment of the learned Chief Judicial Magistrate before the learned Sessions Judge, Saharanpur, UP, against his conviction in the criminal case. The learned Sessions Judge, Saharanpur, UP, *vide* Order dated 05.06.1998, dismissed the said appeal, upholding the Order of the learned Chief Judicial Magistrate, Saharanpur, UP, of his conviction, however, the petitioner was allowed the benefit under the Probation of Offenders Act, 1958 (hereinafter referred to as, 'PO Act') and instead of incarceration in jail, he was, accordingly, released on probation.

6. Aggrieved of the Order passed by the Appellate Authority with regard to his departmental enquiry, the petitioner filed OA No. 21/1999 before the learned Tribunal, which was dismissed by granting the petitioner the liberty to move a review petition.

7. The review petition so filed was then rejected by the Revisionary Authority, *vide* Order dated 11.12.2008.

8. The petitioner filed OA 3321/2009 before the learned Tribunal challenging the Appellate Authority as well as the Revisionary Authority's Orders. While allowing the said OA, the learned Tribunal, *vide* Order dated 13.07.2010, quashed and set aside the Orders of the Appellate Authority and the Revisionary Authority's Orders, and remitted the matter back to Appellate Authority with a direction to issue a speaking order.

9. In compliance of the said Order dated 13.07.2010, the Appellate Authority again upheld the Order of the Disciplinary Authority, *vide*



Order dated 12.10.2010.

10. Being aggrieved by the above-mentioned Order dated 12.10.2010 of the Appellate Authority, the petitioner again filed an OA no. 2067/2011 before the learned Tribunal, which was dismissed *vide* Order dated 18.03.2013, stating that the findings of the Appellate Authority are supported by reasons and are not perverse in any manner.

11. Challenging the said Order, the petitioner filed a writ petition, being W.P.(C) No. 3493/2014, before this Court, which was disposed of *vide* Order 06.05.2015, with the direction to the Appellate Authority to pass a punishment Order after considering the case of the petitioner along with the case of one, Sh. A.K. Dewan.

12. In compliance of the said Order dated 06.05.2015, the Appellate Authority passed the Order dated 28.08.2015, again upholding the Order of the Disciplinary Authority, awarding the punishment of compulsory retirement from service to the petitioner.

13. The petitioner aggrieved with the said Order, filed the OA 3263/2016 before the Tribunal, which has been dismissed *vide* the Impugned Order dated 11.01.2023, finding no infirmity in the Order dated 28.08.2015 passed by the learned Appellate Authority and holding that the imposition of penalty is at the discretion of the departmental authorities and the scope of judicial review is limited.

14. Aggrieved by the said Order, the petitioner has approached this Court through present petition, seeking quashing of the Impugned Order dated 11.01.2023 passed by the learned Tribunal and further to quash the Order dated 23.09.1997 whereby the petitioner was awarded



the punishment of compulsory retirement and seeking reinstatement of the petitioner back in service along with full back wages from the date of removal till the date of his retirement with all consequential benefits.

SUBMISSION ON BEHALF OF THE PETITIONERS

15. The learned counsel appearing on behalf of the petitioner has questioned the correctness of the view expressed in the Impugned Order dated 11.01.2023, asserting that the learned Tribunal gravely erred in not taking into consideration that the Appellate Authority failed to comply with the Order dated 06.05.2015 passed by this Court in W.P. (C)3493/2014 in passing the Order impugned before the learned Tribunal therein.

16. The core submission advanced by the learned counsel for the petitioner is that the penalty of compulsory retirement imposed upon him is grossly disproportionate, particularly when compared to the lesser penalties awarded to other similarly placed delinquent. It is further submitted that, pursuant to the directions issued by this Court *vide* Order dated 06.05.2015, whereby the respondents were directed to reconsider the petitioner's case in light of the case of one Mr. A.K. Dewan, a fresh enquiry was to be undertaken. Without due consideration of the enquiry report, the petitioner's conduct, and the representation submitted by him, the respondents proceeded to pass an order of dismissal and upheld the Order 27.03.1997 passed by the Disciplinary Authority.

17. The learned counsel further submitted that the *mala fides* on the part of the respondent is evident from the fact that the punishment



imposed upon the petitioner has been set aside on two earlier occasions—first by the learned Tribunal *vide* Order dated 13.07.2010, and subsequently by this Court *vide* Order dated 06.05.2015, however, despite the matter being remanded each time, the Appellate Authority has mechanically reiterated its earlier orders without proper reappraisal, thereby rendering the remand proceedings as an empty formality.

18. The learned counsel further places reliance on the Judgement of the Supreme Court in ***Lucknow Kshatriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) & Anr. v. Rajendera Singh***, AIR 2013 SC 3540, submitting that although there is limited judicial review available to interfere with the punishment imposed by the Disciplinary Authority, the same is necessitated in cases where the co-delinquent is awarded lesser punishment by the Disciplinary Authority even when the charges of misconduct was identical or the co-delinquent was foisted with more serious charges. The learned counsel further places reliance on the Judgement of the Supreme Court in ***Naresh Chandra Bhardwaj v. Bank of India and Ors.***, AIR 2019 SC 2075.

19. He submits that in the present case, the petitioner was charged for demanding dowry and failure to return the streedhan to his wife whereas, in the case of Sh. A.K Dewan, he was charged with treating his wife with cruelty which ultimately drove her to take her life by committing suicide. While Sh. A.K Dewan was let off with a penalty of reduction in rank, the petitioner was penalised by compulsorily retiring him from service.



20. The learned counsel for the petitioner states that the respondent while imposing punishment should have acted in a fair and just manner. He places reliance on the Judgement of the Supreme Court in ***Shankar Dass v. Union of India and Anr.***, (1985) 2 SCC 358.

21. He states that as per the Rule 14 of CCS (CCA) Rules, 1965, there should have been an active application of mind by the Disciplinary Authority after considering the entire circumstances in order to decide the nature and extent of penalty to be imposed on delinquent employee on his conviction on a criminal charge. He submits that his conviction under Section 498A and 406 IPC cannot amount to charge of moral turpitude and has no relevance to his service.

SUBMISSION ON BEHALF OF THE RESPONDENT

22. The learned counsel appearing on the behalf of the respondent, while refuting the pleas raised on behalf of the petitioner, submitted that allegations levelled against the petitioner were grave in nature and the charges against him were proved beyond reasonable doubt leading to his conviction in the criminal case.

23. He further submits that the learned Sessions Judge in its appellate jurisdiction, *vide* Order dated 05.06.1998, confirmed the conviction of the petitioner and instead of incarceration of the petitioner, he was given the benefit of the first offender under PO Act. He submits that, however, this had no difference on the penalty of 'Compulsory Retirement' as the petitioner was not completely exonerated of the charges. He submits that when a Government servant has been convicted on grounds of moral turpitude, there is



ample justification for holding the view that retention of such individual in public service is not desirable in terms Rule 19 of CCS (CCA) Rules, 1965. To this effect, he places reliance on the Judgement of the Supreme Court in ***Union of India vs. Ramesh Kumar***, (1997) 7 SCC 514.

24. The learned counsel submits that Section 12 of the PO Act merely states that a person found guilty of an offence and dealt with under the provisions of Section 4 thereof, shall not suffer any 'disqualification', which has not happened in the present case. He highlights that the purpose of Section 12 of the PO Act, therefore, is not to exonerate the offender from departmental punishment.

25. He further submits the petitioner's claim for reinstatement cannot be sustained, particularly in light of the Judgment of this Court in ***Jahan Singh v. Tribal Cooperative Marketing Development Federation of India Ltd. & Anr.***, 2022 SCC OnLine Del 406. In the said case, this Court held that even when an employee is acquitted of criminal charges on the technical ground of failure to prove guilt beyond reasonable doubt, such acquittal does not automatically entitle the individual to reinstatement, especially where concerns remain regarding the integrity and trustworthiness of the public servant.

26. He further submits that in the present case, the petitioner was not merely facing a trial, but was convicted in a criminal case. This fact alone precludes the petitioner from seeking indulgence from this Court.

27. The learned counsel for the respondent further submits that the Judgment of the Supreme Court in ***Lucknow Kshatriya Gramin Bank***



(supra), relied upon by the learned counsel for the petitioner, is not applicable to the facts of the present case as the present case is not a case of co-delinquent being treated differently or being given preferential treatment. In the present case, the petitioner is trying to compare his punishment order with that of Mr. A.K.Dewan, who though faced similar charges, however, cannot be referred as co-delinquent. He submits that such a comparison is impermissible. The relevant portion of the said Judgment is reproduced as under-

“It is made clear that such comparison is permissible only when the other employee(s) who is given lighter punishment was co-delinquent. Such a comparison is not permissible by citing the cases of other employees, as precedents, in all together different departmental enquiries.”

28. The learned counsel lastly submits that, in compliance with the Order of this Court dated 06.05.2015, the Appellate Authority, after due consideration of all relevant aspects, has imposed a proportionate penalty upon the petitioner, having duly taken into account the punishment awarded in the case of Sh. A.K. Dewan, to ensure consistency and parity in disciplinary treatment. The same was rightly refused to be interfered with by the learned Tribunal.

ANALYSIS & FINDINGS

29. We have considered the submissions made by the learned counsels for the parties.

30. In the present case, the petitioner was working as a Clerk in the Office of CDA (AF), Dehradun. He got married to one Geeta Devi on 27.06.1988 and due to incompatibility, his wife filed a complaint



under Section 156 (3) the Code of Criminal Procedure, 1973, implicating the petitioner and his six family members in an FIR registered under Sections 498A/406A IPC at Police Station Gangoh, District Saharanpur, UP. The six family members of the petitioner, however, were acquitted by the Chief Judicial Magistrate, Saharanpur, UP *vide* Judgment dated 18.03.1997, but the petitioner was held guilty under Sections 498A/406 IPC and was sentenced to RI for one year along with a fine of Rs. 1000/-, in default of payment of fine to undergo imprisonment for 9 months, for the offence under Section 498A IPC and RI for 6 months along with a fine of Rs. 5,000/-, in default of payment of fine imprisonment for 6 months, for the offence under Section 406 IPC.

31. The said conviction of the appellant was upheld in the Criminal Appeal No. 7/1997 before the Sessions Judge, Saharanpur, U.P., however, his sentence was reduced considering the facts and circumstances of the case and the petitioner was given the benefit of the PO Act. The relevant portion of the Order dated 05.06.1998 of the learned Sessions Judge, reads as under:

“So far the sentence is concerned I have considered the arguments advanced by the learned counsel for the appellant. It has been alleged that it is the first offence of the appellant and he is in Government service and the sentence of imprisonment will effect his service, I am of the view that instead of sending the appellant to Jail, he be given benefit of First Offenders Probation Act with a compensation of Rs. 1000/- to Smt. Geeta.

ORDER

The appeal regarding conviction is dismissed. The order of the learned magistrate regarding conviction of the appellant for offences under



section 498 A and 406 I.P.C. is hereby maintained. So far a sentences awarded by the learned magistrate are concerned, instead of sending the appellant to Jail to save his service, he is given benefit of the First Offenders probation Act and is released on probation on his executing a personal bond of Rs. 5000/- with two sureties each of the like amount to the satisfaction of the Magistrate concerned for keeping peace and be of good behaviour for a period of one year and he shall pay Rs. 1000/- as compensation to Smt. Geeta. In case of breach of any condition the appellant shall serve out the sentences awarded by the learned Magistrate. The appellant is given 15 days time to file the required bonds."

(emphasis supplied)

32. Subsequent to the passing of the above-mentioned Order, the Appellate Authority, *vide* its Order dated 23.07.1998, confirmed the penalty of compulsory retirement from service imposed upon the petitioner by the Disciplinary Authority *vide* Order dated 13.10.1997, without taking into consideration that the petitioner had been extended the benefit of the PO Act.

33. The petitioner challenged the above Order before the learned Tribunal by way of O.A. No. 21/1999, which was disposed of *vide* Order dated 14.11.2007 opining that the petitioner has a remedy of filing of Revision Petition.

34. The petitioner then filed a Revision Petition, which was disposed of by the Revisionary Authority *vide* Order dated 11.12.2008, observing that the petitioner had been convicted on grounds of moral turpitude and therefore, the penalty was justified.

35. The petitioner challenged the above Order before the Tribunal by way of OA No. 3321/2009, which was disposed of *vide* Order dated 13.07.2010, observing that the effect of the petitioner being



extended the benefit under the PO Act had not been considered by the Appellate or Revisionary Authority and therefore, the matter was remitted back to the Appellate Authority to reconsider the same. We quote from the order as under:

*“7. On perusal of the order passed by the appellate authority, it appears that despite a specific of Probation of Offenders Act and release of the applicant on probation without any sentence undergone by him, the aforesaid fact has not been discussed or controverted nor any finding has been recorded on such a legal plea. The revisional authority has not considered this aspect of the matter. Release on probation may have an impact of removing any disqualification of conviction regarding service but an apt methodology has been provided under Rule 19 by the Government DOPT Vig.dated 30.8.1971 wherein it has been decided that the order of dismissal/removal should be on the ground on conduct which led to applicant's conviction and not the conviction itself. As the appellate and revisional authorities has not discharged their obligation to consider the appeal and grounds raised thereof, the order passed by the appellate authority which required reasons and consideration of all the contentions is vitiated as per the decision of the Apex Court in **Chairman, Disciplinary Authority Rani Laxmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney**, 2009(4) SCALE 169.*

8. Inequality or differential treatment which amounts to invidious discrimination is an ante thesis to Article 14 of the Constitution of India. This principle also applies to the penalty imposed on a Govt. servant. There may be circumstances where the disciplinary authority, by virtue of rank or post held by the Govt. servant may be different but the principle enunciated on the basis of charges, more particularly, in conviction when Mr. Diwan and the applicant were alleged and convicted on the same offence. Mr. Diwan had not been undergone imprisonment, which is not in the case of the applicant, the cases were footed on identical basis,



yet a discriminatory treatment whereby the conduct which emanates from the same offence led to a lesser punishment in case of Sh. Diwan, yet imposing the penalty of compulsory retirement is the clear cut case of discrimination in law.

9. Resultantly, OA is allowed to the extent of quashing the appellate and revisional order. The matter is remitted back to the appellate authority to reconsider the above aspect having regard to our observations and the case law cited by a speaking order to be passed within three months from the date of receipt of a copy of this order.

10. It goes without saying that outcome of the appellate order shall determine the interregnum in accordance with rules, instructions and law on the subject. No costs."

36. The Appellant Authority, however, *vide* its Order dated 12.10.2010 again reiterated the punishment of compulsory retirement on the petitioner. In the Order, the Appellate Authority observed that unlike in the case of Sh. A.K. Dewan, the Court had found evidence against the petitioner of him having tortured his wife. It was further observed that these cases, therefore, cannot be treated as identical. As far as the extension of benefit under the PO Act is concerned, it was observed that Section 12 of the PO Act is not intended to exonerate the petitioner from departmental punishment and the punishment of compulsory retirement imposed on the petitioner does not entail any disqualification for future employment under the Government and, therefore, meets the end of justice.

37. Aggrieved of the above Order, the petitioner challenged the same before the learned Tribunal by way of O.A. No. 2067/2011. The learned Tribunal by its Order dated 18.03.2013 observed that as far as the plea of discrimination *vis-a-vis* the penalty imposed on Sh. A.K. Dewan is concerned, there was material difference between two cases.



It was further observed that, in the present case, the basis of award of penalty was the conduct of the petitioner and not the mere conviction. The OA was, accordingly, dismissed.

38. The petitioner challenged the above Order before this Court by way of W.P.(C) 3493/2014, and this Court by its Order dated 06.05.2015 again remanded the matter back for reconsideration for taking a fresh decision on the quantum of punishment by the Appellate Authority. Highlighting that the petitioner had been released on probation while the other similarly placed person, namely, Sh. A.K. Dewan had remained in jail for 40 days. It was observed that unlike the petitioner, against Sh. A.K. Dewan; there was a dying declaration of his wife; and also the statement made by her brother wherein clear allegations of torture and cruelty had been levelled against him, the Court observed that, therefore, the Appellate Authority had not properly appreciated the facts of both the cases.

39. On such remand, however, the Appellate Authority again *vide* its Order dated 28.08.2015 reiterated the penalty of compulsory retirement on the petitioner distinguishing the case of the petitioner and Sh. A.K. Dewan as under:

“9. WHEREAS, the undersigned has gone through the Court orders available on record with respect to Shri Satya Pal Singh and Shri A.K.Diwan and has after careful scrutiny of both the cases, drawn a comparison based on findings of the Hon’ble Courts and other relevant records.

Sl No.	Sh. Satya Pal Singh	Sh. A.K.Dewan
	<i>The allegation against Shri Satya</i>	<i>The allegation against Shri A.K. Dewan are</i>



	Pal Singh are that he repeatedly demanded dowry from his wife and used to mercilessly beat his pregnant wife in drunken condition and expelled her out of his house in helpless condition. He even went to the extent of confining her in a room, sprinkling kerosene oil over her in order to burn her and refused to return stridhan to her. He was also alleged to enter into a re marriage without divorce from his wife. It is important to note that his mother and other persons were also involved in misdeed of Sh. Satya Pal Singh. However, case against mother (Smt.Chando) was closed due to her death during trial and others, except Shri Satya Pal Singh, were discharged giving benefit of doubts.	that he demanded dowry from his wife and pressurized her to bring dowry from her father, he did not beat or try to burn her. He also did not abet her to commit suicide. From the Judgment of Hon'ble Court it is observed that he, even suffered burn injuries to rescue his wife from burning and also gave one bottle of blood to save her life.
2.	Shri Satyapal Singh was charged and convicted under section 498A and 406 of IPC by the 2nd Addl. CJM and Hon'ble Session	Shri A. K. Dewan was although charged under section 306 and 498A of IPC and under section 3 and 4 of dowry Prohibition Act, he was convicted only under



	Judge Saharanpur vide order dated 30.01.1997 and 05.06.1998 respectively.	section 498A of IPC and section 4 of Dowry Prohibition Act vide Additional Sessions Judge, Meerut order dated 21.02.1990.
3.	Shri Satyapal Singh was sentenced by the 2 nd Addl.CJM, Saharanpur to undergo RI for one year and a fine of Rs. 1000/- for offence under Section 498A IPC and in default of payment of fine to further undergo imprisonment for nine months. Six Months RI and a fine of Rs, 5000/ for offence under Section 406 IPC and imprisonment for nine months in default of payment of fine.	Shri A.K. Dewan was sentenced to a fine of Rs 1000/- besides the imprisonment of 40 days already suffered by him during investigation for the offence under section 498A IPC and a fine of Rs. 1000/- for the offence under section 4 of the Dowry Prohibition Act with additional imprisonment for three months in default of payment of fine awarded under section 498A and also an imprisonment for three months for nonpayment of fine awarded under section 4 of Dowry Prohibition Act.
4.	The Hon'ble Court took into consideration the statement of witnesses and other evidences	In case of Sh. Dewan, Hon'ble Court took cognizance of dying statement of his wife.
5.	In the case of Shri Satya Pal Singh the above conviction awarded by the 2 nd Addl. CJM, Saharanpur was maintained by the Session Judge, Saharanpur in its order dated	In the case of Shri A.K. Dewan there was no appeal against the conviction.



	05.06.1998 but instead of being sent him to jail to save his service he was given benefit of the First Offender's Probation Act and was released on probation on his executing a personal bond of Rs.5000/- with two sureties each of the like amount to the satisfaction of the Magistrate concerned for keeping peace and be of good behaviour for a period of one year and on paying Rs.1000/- as compensation to this wife. In the case of breach of any condition he was to serve out the sentences awarded by the Magistrate.	
--	--	--

”

40. The Appellate Authority observed that while there may be similarity in respect of basic charge, that is, harassment by the spouse culminating in the registration of the FIR under Section 498A of IPC, but there is difference in conduct of both the persons and the degree of actions which led to their respective convictions. It was observed that, therefore, the two cases cannot be considered equal.

41. Aggrieved of the above Order, the petitioner filed O.A. No.3263/2016, which has resulted in the Impugned Order. The learned



Tribunal in its Impugned Order dated 11.01.2023 held that there was no glaring infirmity which shocks of the conscience of the learned Tribunal to arrive at a different conclusion with respect to the penalty imposed on the petitioner and, therefore, dismissed the OA.

42. From the above narration of facts, it would be apparent that this Court had remanded the matter back to the Appellate Authority for cumulatively considering the effect of the petitioner being granted the benefit of the PO Act *vis-a-vis* Sh. A.K. Dewan who had been convicted, however, still visited with a lesser penalty.

43. At the outset we may note that the reliance placed by the learned counsel for the petitioner on the Judgement of Supreme Court in ***Lucknow Kshatriya Gramin Bank*** (supra) is misplaced and untenable in the present context as the Judgement is distinguishable from the facts of the present case, inasmuch as, in the said case, the employees seeking parity in the punishment were co-delinquents, which is not the case here as Sh. A.K. Dewan was not put on the trial along with the petitioner in the same case.

44. Be that as it may, it is settled law that the Competent Authority is expected to exercise its powers under Article 311(2) of the Constitution of India after due caution and considerable application of mind.

45. Furthermore, the Supreme Court in the case of ***State of Madhya Pradesh & Ors. v. Hazarilal***, (2008) 3 SCC 273, has held that conviction for a criminal offence does not imply that dismissal must be imposed in every case, Disciplinary power must be exercised reasonably and fairly, keeping in view nature of offence and sentence



imposed. The relevant portion is reproduced herein under-

“7. By reason of the said provision, thus, "the disciplinary authority has been empowered to consider the circumstances of the case where any penalty is imposed on a government servant on the ground of conduct which has led to his conviction on a criminal charge", but the same would not mean that irrespective of the nature of the case in which he was involved or the punishment which has been imposed upon him, an order of dismissal must be passed. Such a construction, in our opinion, is not warranted.

8. An authority which is conferred with a statutory discretionary power is bound to take into consideration all the attending facts and circumstances of the case before imposing an order of punishment. While exercising such power, the disciplinary authority must act reasonably and fairly. The respondent occupied the lowest rank of the cadre. He was merely a contingency peon. Continuation of his service in the department would not bring a bad name to the State. He was not convicted for any act involving moral turpitude. He was not punished for any heinous offence.”

46. At this juncture we quote the relevant provisions of the PO Act, which read as under:

“4. Power of court to release certain offenders on probation of good conduct.

(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to



release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to



impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

XXX

12. Removal of disqualification attaching to conviction.

Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under section 4 is subsequently sentenced for the original offence.”

47. Under Section 4 of the PO Act, the Court is empowered to release an offender on probation of good conduct instead of sentencing him to imprisonment, if the offence is not punishable with death or life imprisonment and the circumstances of the case justify such leniency. The object of the provision is reformatory, enabling the offender, particularly first-time convicts, to reintegrate into society without undergoing the rigors of incarceration. Further, Section 12 of the said Act provides that a person released on probation under Section 4 shall not suffer any disqualification or disability attached to a conviction under any other law. Thus, the conviction may stand, but its adverse legal consequences are neutralized to ensure that the offender is not permanently handicapped in civil life.

48. It is in this context that the Supreme Court in ***Shankar Dass***



(supra), has held that in cases where the competent authority has not applied its mind in a fair, just and reasonable manner in order to assess what appropriate penalty could have been imposed on an individual who has been granted benefit under the PO Act, intervention by the Court is not only justified but also necessary.

49. Applying this principle to the facts of the present case we find that when a criminal court has extended leniency by granting the benefit of the PO Act, to the petitioner, the Disciplinary Authority's decision to impose the one of the harshest departmental penalties of compulsory retirement appears disproportionate and excessive, especially if the same is viewed from the point that in the case of a co-employee, who has been convicted for the same offence, under Section 498A IPC and was not extended the benefit of PO Act but was retained in service by the department. This factor should have been taken into consideration by the Appellant Authority in a just and fair manner and the upholding of the punishment despite this stark disparity undermines the principle of proportionality in administrative justice.

50. At this stage it is also pertinent to mention that each case has to be examined separately. Hence the Judgement passed by this Court in **Jahan Singh**(supra) involving a specific situation of an acquittal on technical grounds and the implication thereof on the disciplinary proceedings, cannot come to the aid of the respondents in the present case.

51. On an overall consideration of the above facts and circumstances, we find that the view taken by the Competent



Authority was not justified and the penalty of compulsory retirement was disproportionate especially given the observations made the learned Sessions Judge while granting the petitioner the benefit of the PO Act.

52. One of the options open to us would have been to again remand the matter back to the Competent Authority of the respondents to pass a fresh order. However, in the facts of the present case, where we have already remanded the matter back to the Competent Authority multiple times, and the Competent Authority has failed to consider the case wholistically taking into consideration elements of proportionality and the principles of natural justice, we are of the opinion that again remanding the matter back to the Competent Authority shall cause injustice to the petitioner.

53. Accordingly, we deem it appropriate in the peculiar facts of the present case to set aside the Impugned Order dated 11.01.2023 passed by the learned Tribunal as well as the Orders dated 23.09.1997 and 28.08.2015 passed by the Disciplinary Authority and the Appellant Authority, respectively.

54. The petitioner is directed to be reinstated in service with effect from the date of his Compulsory Retirement from service, that is, 30.09.1997, granting him notional seniority and other service benefits considering him to be in service throughout the period between his dismissal and the reinstatement. However, we make it clear that the petitioner will not be entitled to grant of any pay and other emoluments/allowances for the period between the date of Compulsory Retirement from service to the date of his reinstatement.



2025:DHC:6608-DB



55. The respondents shall pass the order of reinstatement of the petitioner in service within a period of eight weeks of the present order.

56. The petition, along with the pending application, is disposed of in the aforesaid terms.

RENU BHATNAGAR, J.

NAVIN CHAWLA, J.

AUGUST 8, 2025/*pr/KZ*