



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

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**CWP-18291-2005 (O&M)  
Date of Decision: 18.02.2026**

Kanwaljit Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Ms. Manveen Pheruman, Advocate  
for the petitioner.

Mr. Arun Jindal, Addl. A.G., Punjab.

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Articles 226/ 227 of the Constitution of India is seeking setting aside of order dated 17.12.2001 whereby he was awarded punishment of forfeiture of five years' service for the purpose of increments. He further seeks setting aside of order dated 09.12.2004 vide which his name was removed from promotion list C-II (Exemptee).

2. The petitioner was appointed in Punjab Police force as Constable. His name was brought in promotion list C-II (Exemptee) vide order dated 30.03.1991. He was implicated in FIR No. 118 dated 21.07.1996 under Sections 377 and 506 of the Indian Penal Code, 1860 registered at Police Station Tarn Taran. He came to be acquitted vide judgment dated 09.09.1997. He was subjected to departmental enquiry and was served a show cause notice dated 10.12.1999 by SSP Tarn Taran. He Vide order dated 17.12.2001 was awarded punishment of forfeiture of 5

years' service for the purpose of increments. He unsuccessfully filed appeal which was followed by revision.

3. Learned counsel representing the petitioner submits that petitioner was honourably acquitted by trial Court, thus, the respondent in view of Rule 16.3 of Punjab Police Rules, 1934 (for short 'PPR') could not impose penalty of forfeiture of five increments. The respondent-department has no right to sit over judgment of trial Court.

4. *Per contra*, Learned State Counsel submits that FIR was registered against the petitioner and his acquittal in criminal case does not entail setting aside of punishment of forfeiture of increment. Standard of proof in departmental proceedings is different from criminal proceedings, thus, impugned orders are justified. A person who was involved in criminal activities cannot be dealt with in a lenient manner. Discipline is of paramount consideration in police force.

5. Heard the arguments and perused the record.

6. From the perusal of record, it is evident that petitioner was implicated in a criminal case alleging commission of unnatural act. The investigating agency after completing investigation filed police report. He faced trial and came to be acquitted by Trial Court vide judgment dated 09.09.1997. As per judgment of Hon'ble Supreme Court in ***Ram Lal v. State of Rajasthan, 2023 SCC Online SC 1618***, it is duty of the Court to examine findings of Trial Court to ascertain whether delinquent was acquitted honourably or otherwise. The Trial Court has recorded its finding in Paragraph Nos. 8 and 9 of the judgment which are reproduced as below:

*“8. In this case, none of the prosecution witnesses examined by the prosecution have supported the prosecution version. PW 1 Amandeep Singh, who is complainant of this case has deposed that*

*on 21.7.96 at about 2.00 p.m. when he went to the room of Kanwaljit Singh to give him newspaper four or five persons were present there and they forcibly made him to sit thereto and he cried upon which his father came there and all the said persons ran away from the spot. He stated that the police had not recorded his statement. PW2 Shangara Singh PW 3 Rajinder Pal Kaur and PW 3 Surjit Kaur eye witnesses also did not support the prosecution case. They stated that they did not see any occurrence nor their statements were recorded by the police. All the four witnesses examined by the prosecution were got declared hostile by the learned APP for the State and they were put questions in the nature of cross examination, but even then nothing favourable to the prosecution could be extracted from their mouth. Since the main prosecution witnesses did not support the prosecution case, so the evidence of prosecution was closed by order as no useful purpose would have been served by examining the remaining formal witnesses.*

*9. As the complainant and the eye witnesses did not support the prosecution case and there is nothing incriminating evidence against the accused on the record, therefore, I acquit the accused of the charges framed against him. File be consigned to the record room.”*

7. From the perusal of aforesaid judgment, it is evident that witnesses including the complainant turned hostile and failed to depose against the petitioner. The department after acquittal issued him show cause notice proposing punishment of dismissal from service. A regular departmental inquiry was conducted whereby punishment of forfeiture of 5 increments with permanent effect was imposed upon the petitioner.

8. In ***Stanzen Toyotetsu India P. Ltd. v. Girish V., 2014 (3) SCC 636***, the Apex Court has held that departmental inquiry is aimed at maintaining discipline and efficiency in service while criminal prosecution for an offence is launched for violation of a duty that the offender owes to

the society and both operate in separate and different spheres and intending to serve totally different purposes. The relevant extracts of the judgment read as:

“9. *In A.P. SRTC v. Mohd. Yousuf Miya [(1997) 2 SCC 699; 1997 SCC (L&S) 548]* this Court declared that the purpose underlying departmental proceedings is distinctly different from the purpose behind prosecution of offenders for commission of offences by them. While criminal prosecution for an offence is launched for violation of a duty that the offender owes to the society, departmental enquiry is aimed at maintaining discipline and efficiency in service. The difference in the standard of proof and the application of the rules of evidence to one and inapplicability to the other was also explained and highlighted only to explain that conceptually the two operate in different spheres and are intended to serve distinctly different purposes.”

9. The Supreme Court in ***Noida Entrepreneurs Assn. v. Noida, (2007) 10 SCC 385***, while discussing its catena of judgments has held that criminal proceedings are launched for an offence for violation of a duty, which the offender owes to the society, whereas, the departmental enquiry is to maintain discipline in the service and efficiency of public service. The relevant extracts of judgment read as:

"2. *A brief reference to certain earlier events and orders passed by this Court would be necessary.*

3. to 10.        xxxx                xxxx                xxxx

11. *A bare perusal of the order which has been quoted in its totality goes to show that the same is not based on any rational foundation. The conceptual difference between a departmental enquiry and criminal proceedings has not been kept in view. Even orders passed by the executive have to be tested on the touchstone of reasonableness. [See Tata Cellular v. Union of India [Tata Cellular v. Union of India, (1994) 6 SCC 651] and Teri Oat Estates (P) Ltd. v. State (UT of Chandigarh) [Teri Oat Estates*

*(P) Ltd. v. State (UT of Chandigarh), (2004) 2 SCC 130].] The conceptual difference between departmental proceedings and criminal proceedings have been highlighted by this Court in several cases. Reference may be made to Kendriya Vidyalaya Sangathan v. T. Srinivas [Kendriya Vidyalaya Sangathan v. T. Srinivas, (2004) 7 SCC 442], Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry [Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry, (2005) 10 SCC 471] and Uttaranchal RTC v. MansaramNainwal [Uttaranchal RTC v. MansaramNainwal, (2006) 6 SCC 366].*

*'8. ... The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in the criminal cases against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When the trial for a criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Evidence Act, 1872 [in short "the Evidence Act"]. The converse is the case of departmental enquiry. The enquiry*

*in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position.*

*... Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.' [Ed. : As observed in A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699, pp. 704-05, para 8.]”*

10. Supreme Court in the case of ***State of Karnataka and another v. Umesh* 2022 (6) SCC 563**, has held that punishment awarded in departmental proceeding cannot be quashed on the ground of acquittal in criminal trial. High Court does not act as an Appellate Authority over the findings of Disciplinary Authority. The relevant extracts of the judgment read as:

“22. *In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:*

- (i) the rules of natural justice have been complied with;*
- (ii) the finding of misconduct is based on some evidence;*
- (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (v) the penalty is disproportionate to the proven misconduct.*

23. *However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”*

11. From the above cited judgments, following guiding principles can be culled out:

- i) Standard of evidence and yardstick adopted to adjudicate same matter in departmental and criminal proceedings are different.
- ii) Conviction in criminal trial rests upon proving guilt beyond reasonable doubt whereas punishment in departmental proceedings rests upon preponderance of probabilities.
- iii) High Court, in exercise of power conferred by Article 226 of Constitution of India, while deciding petition against departmental punishment cannot act as an appellate authority.

- iv) If the departmental and criminal proceedings are based upon same set of allegations, charges and evidence either oral or documentary and there is acquittal in criminal trial, the departmental proceedings may be set aside.
- v) It is duty of the Court to examine findings of criminal court and it should not sway by use of expression 'acquittal', 'honourable acquittal' and 'beyond reasonable etc.

12. The service of petitioner was governed by PPR. As per Rule 16.25 of PPR, the standard of proof necessary to establish charges is satisfaction of Inquiry Officer. The Inquiry Officer is not required to prove guilt beyond reasonable doubt. As per afore-cited judgments, standard of proof in departmental proceedings is preponderance of probabilities. In case of police official, Rule itself is providing that satisfaction of Inquiry Officer is necessary to establish charge. There is no need to establish guilt beyond reasonable doubt.

13. The Departmental proceedings are independent from criminal proceedings. Law laid down by Supreme Court in multiple judgments is to the effect that departmental proceedings may continue independent from criminal proceedings and may culminate in punishment despite acquittal in the criminal proceedings. The said principle is a general principle of law, however, police officials are governed by Punjab Police Rules and Rule 16.3 of 1934 Rules specifically advert to the situation.

14. Rule 16.3 of PPR provides that if a police officer is acquitted by criminal Court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case.

Rule 16.3 of PPR is reproduced as below:

*“16.3. Action following on a judicial acquittal. - (1) When a Police Officer has been tried and acquitted by a criminal court he shall be not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not, unless -*

*(a) the criminal charge has failed on technical grounds; or  
(b) in the opinion of the Court or of the Neutral Superintendent of Police, the prosecution witnesses have been won over; or  
(c) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or*

*(d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or*

*(e) additional evidence admissible under rule 16.25(1) in departmental proceedings is available.*

*(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of Deputy Inspector General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”*

15. From the perusal of above Rule, it is quite evident that if a Police Officer is acquitted by criminal Court, he shall not be punished departmentally on the same or on a different charge upon the evidence cited in criminal case. There are exceptions carved out in the said Rule. The exceptions include exoneration on technical grounds or where

Superintendent of Police finds that prosecution witnesses have been won over.

16. The petitioner was implicated in the aforesaid FIR. Police after completing investigation filed challan under Section 173 of Cr.P.C. The Trial Court examined prosecution witnesses. The trial Court concluded that prosecution has failed to prove its case. The department on the basis of its inquiry punished the petitioner with forfeiture of 5 increments with permanent effect. Case of petitioner falls within exceptions carved out in Rule 16.3 as he was acquitted on technical grounds, i.e., witnesses turned hostile.

In view of Rule 16.25 and exceptions carved out in Rule 16.3 of PPR, if criminal proceedings are initiated besides departmental proceedings, the outcome of departmental proceedings on account of the fact that both proceedings are adjudicated applying different yardstick, cannot be ignored or brushed aside on account of dropping of criminal proceedings. In the departmental proceedings, the department is not bound to prove its case beyond the reasonable doubt because findings depend upon preponderance of probabilities. The Trial Court examined the same evidence as discussed and relied upon in departmental inquiry, however, returned its findings in view of the fact that prosecution was bound to prove its case beyond reasonable doubt. The departmental authorities, in the present case, have duly considered the evidence and passed the impugned punishment order. The petitioner was found involved in commission of unnatural sex punishable under section 377 IPC. There was no occasion for a child and his family members to implicate the petitioner. There is nothing on record disclosing that victim child or his family was having

enmity, hostility or animosity towards petitioner. There were serious allegations against petitioner, thus, he was rightly punished departmentally, though technically acquitted by the trial Court.

17. In the wake of above discussion and findings, this Court is of the considered opinion that petition deserves to be dismissed and accordingly *dismissed*.

(JAGMOHAN BANSAL)  
JUDGE

18.02.2026  
Prince Chawla

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |