



2026:AHC:164197

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 45295 of 2009

Sanjeev Kumar @ Titu

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Arun Kumar Singh, Punit Khare, Ramesh Kumar, Saurabh Gour
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(Sl.No.66)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Arun Kumar Singh, learned counsel for the petitioner and Sri Dilip Kumar Kesarwani, learned Additional Chief Standing Counsel for the State.

2. The instant writ petition was filed by the petitioner seeking quashing of the order dated 26.04.2007 whereby the petitioner was removed from the services and the petitioner has also challenged the order dated 30.08.2007 as well as the order dated 30.04.2008 whereby the appeal and revision preferred by the petitioner against the order dated 26.04.2007 were also rejected respectively.

3. The briefly stated facts of the case are that the petitioner was appointed as Constable in PAC and was posted in 28th Battalion, PAC on 08.06.2006. He went for ten days and two days earned leave and the petitioner was expected to join his duties on completion of the leave period on 21.06.2006.

4. It is the case of the petitioner that during the aforesaid leave period, the petitioner was ill and was under treatment at Dr. Shyama Prasad Mukherjee, Community Health Centre, Modinagar, Ghaziabad. In this regard he sent the information regarding illness to respondent no.2 and due to his continued illness, he could not join. Thereafter on 25.06.2006, the petitioner was arrested in connection with Case Crime No. 243 of 2006, under Section 307 IPC and also in connection with Case Crime No. 244 of 2006, under Section 307 IPC and also in Case Crime No. 245 of 2006 under Section 25 of the Arms Act as well as in Case Crime No. 0/2006 under Section 414 IPC at P.S. Modinagar, District Ghaziabad.

5. After release of the petitioner on 07.09.2006 from the jail, he reported in the Battalion on 12.09.2006. The petitioner was suspended and the disciplinary proceeding was initiated against the petitioner. Thereupon, the charge sheet was issued

against the petitioner on 14.09.2006 calling upon the petitioner to submit his explanation by 25.09.2006. Thereupon, the petitioner sought some documents, which were provided to him on 24.09.2006. The petitioner submitted his reply to the charge sheet on 09.10.2006 and the statement of the petitioner was also recorded. Thereafter the enquiry officer proceeded with the enquiry. Various witnesses were examined and opportunity to cross-examine was also granted to the petitioner. After opportunity was granted to the petitioner, he submitted his written submission on 03.04.2007. After that the enquiry officer having analyzed the entire material available on record held that the charges leveled against the petitioner are proved. Thereupon, a show cause notice was issued to the petitioner with regard to the proposed punishment of removal from service. The detailed reply was submitted by the petitioner, which was duly considered by the disciplinary authority and thereupon, the impugned order dated 26.04.2007 was passed whereby the petitioner was removed from service and thereafter the appeal and revision filed by the petitioner were also rejected by the impugned orders dated 03.08.2007 and 03.04.2008, respectively.

6. It is submitted by learned counsel for the petitioner that after the impugned order dated 26.04.2007 was passed against the petitioner, whereby he was removed from services, the petitioner was also acquitted in the aforesaid criminal cases vide judgment and order dated 29.10.2007 in Case Crime No. 244 of 2006 as well as Case Crime No. Nil, under Section 414 on 29.10.2007 and in Case Crime No. 243 of 2006 as well as Case Crime No. 245 of 2006, the petitioner was acquitted vide judgment and order dated 02.07.2008. Learned counsel for the petitioner further submits that since the main allegation against the petitioner was with regard to the registration of the criminal cases against the petitioner due to criminal act committed by the petitioner and in the said cases, the petitioner has already been acquitted. Though after the disciplinary proceedings were concluded against the petitioner, the removal order was passed against the petitioner.

7. However, with regard to unauthorized absence, it is submitted by learned counsel for the petitioner that initially the petitioner fell ill and thereafter he was arrested in connection with the aforesaid criminal cases in which he has been acquitted, therefore, his unauthorized absence was not deliberate nor willful on the part of the petitioner and his absence was under the circumstances beyond the control of the petitioner. Since the petitioner has already been acquitted in the criminal cases, the order of removal from service was also required to be reviewed and the petitioner be taken in service. Learned counsel for the petitioner further submits that for the allegation even for the proven charges against the petitioner, the punishment awarded by the disciplinary authority is disproportionate to the guilt of the petitioner. Therefore, learned counsel for the petitioner seeks quashing of the aforesaid punishment order as well as consequential orders passed in appeal and revision and also the consequential benefits to be accorded to the petitioner.

8. Per contra, learned Additional Chief Standing Counsel for the State submits that the charges in the disciplinary proceeding against the petitioner were not the same that were in the criminal case but the charges were with regard to his unauthorized absence and during unauthorized absence, his illegal activities for which the criminal cases were registered against him and he was arrested, which has damaged the image of the disciplined force like PAC and which amounts to indiscipline and misconduct on the part of the petitioner. It is further submitted by learned Additional Chief Standing Counsel that the disciplinary proceedings were carried out in accordance with law and there is no allegation on the part of the petitioner that he was not afforded proper opportunity before passing the impugned order and there is no procedural default in the entire process adopted against the petitioner. It is further submitted that since the petitioner was a member of the disciplined force and he remained absent without intimation to the department previously from 21.6.2006 till 25.6.2006 when he was arrested and due to the activities of the petitioner for which the criminal cases were lodged against the petitioner, the petitioner has damaged the image of the disciplined force like PAC and thus he has been found guilty of the indiscipline and misconduct, for which the punishment awarded to the petitioner is rightful and proportionate to the guilt of the petitioner. Thus there is no infirmity in the impugned orders. Therefore, learned Additional Chief Standing Counsel seeks dismissal of the instant writ petition.

9. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case. The facts of the case have already been noted herein above. It is an undisputed fact that the petitioner had proceeded on leave for 12 days on 09.06.2006 and was required to report back on 21.06.2006 but failed to report back without intimation. On 25.06.2006, the petitioner was arrested in connection with the aforesaid case crime numbers lodged against him. However, it is the case of the petitioner that after his release on 07.09.2006, he reported back on 12.09.2006, however, the same has been disputed by the respondents. According to the respondents, the petitioner never reported back till the disciplinary proceedings were initiated against him and he was suspended. Thereafter, disciplinary proceedings were initiated against the petitioner and a charge-sheet was duly served upon him on 14.09.2007. After granting full opportunity to defend, the disciplinary proceedings were concluded, whereupon a show-cause notice was issued. The explanation submitted by the petitioner was duly considered by the disciplinary authority and having found the charges of indiscipline and misconduct proved against the petitioner, the impugned punishment of removal from service was passed.

10. Though the misconduct in the instant case relates to the registration of criminal cases against the petitioner, in which he was subsequently acquitted vide judgments and orders dated 29.10.2007 and 02.07.2008. A perusal of the aforesaid judgments passed by the trial court reveals that the acquittal was based on the benefit of doubt and the prosecution's failure to prove charges beyond reasonable doubt.

11. It is a settled position of law that even after a subsequent acquittal of a delinquent employee, the order passed in disciplinary proceedings does not automatically come to an end. The allegations in the instant case were of unauthorized absence, indiscipline and misconduct on the part of the petitioner.

12. Before proceeding further, it would be relevant to take note of some of the judgments of the Apex Court, which throw light on the aforesaid issue. In **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. & Anr : (1999) 3 SCC 679**, the Apex Court has drawn the following conclusion:-

"22. The conclusions which are deducible from various decisions of this Court referred to above are:

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest."

13. According to the aforesaid judgment, the departmental proceedings as well as the criminal trial can proceed simultaneously as there is no bar to their being conducted simultaneously. However, it provides that where the charges in the departmental proceedings as well as criminal case are based on identical and similar set of facts and

the charge in the criminal case against the delinquent employee is of a grave nature, which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Whether the criminal case involves the grave charges or whether it involves the complicated questions of fact and law, will depend upon the nature of the offense, nature of the case lodged against the employee on the basis of the evidence and material collected during investigation. However, it has further been provided in the said judgment that the Stay of departmental proceedings cannot operate in isolation on the aforesaid principles but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed and wherever the disposal of criminal case is delayed, the disciplinary proceedings cannot be delayed.

14. In **Karnataka Power Transmission Corporation Limited vs. C. Nagaraju** : **2019 10 SCC 367**, the Apex Court has held as under:

"10. As the High Court set aside the order of dismissal on the basis of the judgments of this Court in M. Paul Anthony [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810] and G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , it is necessary to examine whether the said judgments are applicable to the facts of this case. Simultaneous continuance of departmental proceedings and proceedings in a criminal case on the same set of facts was the point considered by this Court in M. Paul Anthony case [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 : 1999 SCC (L&S) 810] . This Court was of the opinion that departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar. However, it is desirable to stay departmental inquiry till conclusion of the criminal case if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact. On the facts of the said case, it was found that the criminal case and the departmental proceedings were based on identical set of facts and the evidence before the criminal court and the departmental inquiry was the same. Further, in the said case the departmental inquiry was conducted ex parte. In such circumstances, this Court held that the ex parte departmental proceedings cannot be permitted to stand in view of the acquittal of the delinquent by the criminal court on the same set of facts and evidence. The said judgment is not applicable to the facts of this case. In the present case, the prosecution witnesses turned hostile in the criminal trial against Respondent 1. He was acquitted by the criminal court on the ground that the prosecution could not produce any credible evidence to prove the

charge. On the other hand, the complainant and the other witnesses appeared before the inquiry officer and deposed against Respondent 1. The evidence available in the departmental inquiry is completely different from that led by the prosecution in criminal trial.

11. Reliance was placed by the High Court on a judgment of this Court in *G.M. Tank* [*G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] whereby the writ petition filed by Respondent 1 was allowed. In the said case, the delinquent officer was charged for an offence punishable under Section 5(1)(e) read with Section 5(2) of the PC Act, 1988. **He was honourably acquitted by the criminal court as the prosecution failed to prove the charge. Thereafter, a departmental inquiry was conducted and he was dismissed from service.** The order of dismissal was upheld [*G.M. Tank v. State of Gujarat*, 2003 SCC OnLine Guj 487] by the High Court. In the appeal filed by the delinquent officer, **this Court was of the opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the criminal court and the departmental proceedings being exactly the same, this Court held that the acquittal of the employee by a criminal court has to be given due weight by the disciplinary authority. On the basis that the evidence in both the criminal trial and departmental inquiry is the same, the order of dismissal of the appellant therein was set aside. As stated earlier, the facts of this case are entirely different. The acquittal of Respondent 1 was due to non-availability of any evidence before the criminal court. The order of dismissal was on the basis of a report of the inquiry officer before whom there was ample evidence against Respondent 1.**

12. In *Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh* [*Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh*, (2004) 8 SCC 200 : 2004 SCC (L&S) 1067] this Court was concerned with the validity of the termination of the services of workmen after acquittal by the criminal court. Dealing with a situation similar to the one in this case, **where the acquittal was due to lack of evidence before the criminal court and sufficient evidence was available before the Labour Court, this Court was of the opinion that the judgment in *M. Paul Anthony* case [*M. Paul Anthony v. Bharat Gold Mines Ltd.*, (1999) 3 SCC 679 : 1999 SCC (L&S) 810] cannot come to the rescue of the workmen.**

13. Having considered the submissions made on behalf of the appellant and Respondent 1, **we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in**

the departmental inquiry is different from that produced during the criminal trial. The object of a departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a departmental inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the inquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needed no interference by the High Court."

15. In **Union of India vs. Sitaram Mishra : (2019) 20 SCC 588**, the Apex Court has observed as under:

"14. 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 M. Paul Anthony v. Bharat Gold Mines Ltd. [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679: 1999 SCC (L&S) 810]. The High Court adverted to the following principle of law laid down in the above judgment: (SCC p. 687, para 13)

"13....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 doubt. 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."

15. It is undoubtedly correct that the charge in the criminal trial arose from the death of a co-employee in the course of the incident resulting from the firing of a bullet which took place from the weapon which was assigned to the first respondent as a member of the Force. But the charge of misconduct is on the ground of the negligence of the first respondent in handling his weapon and his failure to comply with the departmental instructions in regard to the manner in which the weapon should be handled. Consequently, the acquittal in the criminal case was not a ground for setting aside the penalty which was imposed in the course of the disciplinary enquiry. Hence, having regard to the parameters that govern the exercise of judicial review in disciplinary matters, we are of the view that the judgment [Sitaram Mishra v. Union of India, 2007 SCC OnLine Cal 718 : (2008) 1 Cal LJ 863] of the

Division Bench of the High Court is unsustainable."

16. In **Ajit Kumar Negi vs. General Manager Indian Oil Corporation Limited :** (2005) 7 SCC 764, the Apex Court has observed as under:

"11. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with Rules and Regulations in force. The two proceedings criminal and departmental - are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service Rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt?', he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of 'preponderance of probability'....."

17. In **State of Rajasthan vs. Heem Singh :** (2020) SCC OnLine SC 886, the Apex Court has observed as under:

"39. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there

are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy 'deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

18. In **Phool Singh (Supra)**, the Apex Court has categorically observed as under:

"7. The question before this Court is therefore only to see whether the respondent can be reinstated in service for the reason that now on the same set of charges he has been acquitted by a criminal court?"

8. There should be no ambiguity in law on this subject. A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of 'preponderance of probabilities', in a criminal court the prosecution has to prove its case 'beyond reasonable doubt'. In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.

11.....In the above case a distinction has also been drawn by this Court

between a "criminal offence" and "Misconduct". One has to be proved in a criminal court, the other in a departmental proceedings, and though both may arise from the same set of facts, yet there is a clear distinction between the two and merely because one has been acquitted in a criminal trial, it would not amount to a reversal of the findings of "misconduct", which were arrived in a departmental proceedings.....?"

19. In **Ram Lal vs. State of Rajasthan & Ors. (Civil Appeal no. 7935 of 2023 dated 04.12.2023)**, the Apex Court has observed as under:

"25. Expressions like "benefit of doubt" and "honorably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used."

20. In **Maharana Pratap Singh vs. State of Bihar and Others : 2025 SCC OnLine SC 890**, the Apex Court has observed as under:

"47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in G. M. Tank (supra), since reinforced by a decision of recent origin in Ram Lal v. State of Rajasthan.

48. To assess the degree of similarity between the charges, evidence, witnesses, and circumstances in the disciplinary and criminal proceedings, it is indeed crucial to review the materials placed before the Court where such an issue arises...."

21. In **Commissioner of Police, New Delhi and Another vs. Mehar Singh : 2013 (7) SCC 685**, the Apex Court has observed as under:

"25. The expression 'honourable acquittal' was considered by this Court in S. Samuthiram. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 of the IPC and under Section 4 of the Eveteasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in Management of Reserve Bank of India, New Delhi v. Bhopal Singh Panchal[12], where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in departmental proceedings. This Court observed that the expressions 'honourable acquittal', 'acquitted of blame' and 'fully exonerated' are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression 'honourably acquitted'. This Court expressed that when the accused is acquitted after full consideration of prosecution case and the prosecution miserably fails to prove the charges leveled against the accused, it can possibly be said that the accused was honourably acquitted."

22. In **Constable No.118 Awadhesh Kumar Pandey (Supra)** the Division Bench having examined the judgement passed by the trial court concluded that the appellant herein was acquitted and in the disciplinary proceedings he was punished only on the basis of two days' absence that due to ailment, thus found the penalty of punishment to be disproportionate, accordingly set-aside the same and directed the reinstatement of the appellant with 25% back wages along with all other consequential benefits.

23. The Coordinate Bench of this Court in **Anand Kumar vs. Union of India and Another : 2025 0 AHC 188636: 2025 0 Supreme (All) 3430**, having found various cases of the Apex Court in this regard, observed as under:-

"39. A comparative study of the purpose, scope, procedure and standards of evidence in departmental enquiries and criminal trials is crucial for determining the feasibility or advisability of continuing the two proceedings simultaneously in the facts of this case.

46. In case departmental proceedings are held up for prolonged periods and delinquent officials are permitted to discharge their duties in the face of grave charges of misconduct as if it was business as usual, the consequences will be very grave for departmental efficiency, image and

discipline."

24. In the aforesaid judgments, the legal position is crystal clear that the criminal trial and the disciplinary proceedings for the identical allegations operate in different spheres and both are not dependent on each other. Merely because an employee is acquitted in a criminal trial, he cannot be ipso facto reinstated in service due to such acquittal in criminal trial. In the recent judgments, after considering the previous judgments of the Apex Court, the Apex Court has categorically observed that merely the facts of acquittal in a criminal trial would not amount to reversal of findings of misconduct which were arrived at in the past proceedings. From the aforesaid judgments of the Apex Court it can be safely concluded that wherever charges and allegations were identical and the criminal court has acquitted then it is the duty of the Court to examine whether it was an honorable acquittal or benefit of doubt has been given to such employee. Even if there is an honorable acquittal the Court is required to examine whether the witnesses produced before the Disciplinary Authority and the criminal trial were the same. If there were the same set of witnesses then on the basis of the evidence led in the criminal court has acquitted then in such cases the reinstatement can be granted by the Court. However, if the court on scrutiny finds that the witnesses examined during the disciplinary proceedings have supported the allegations, however the same set of witnesses did not support the criminal trial or that there are some additional facts which have been proved in the disciplinary proceedings and which were not the subject matter of trial then the court should not interfere in such concluded disciplinary proceedings.

25. In view of the aforesaid settled legal position and upon perusal of the judgments of acquittal passed in favour of the petitioner by the trial court, the failure of the prosecution to prove its case beyond reasonable doubt amounts to an honorable acquittal as interpreted by the Apex Court in **Commissioner of Police v. Mehar Singh (supra)**. Therefore, once there is an honorable acquittal of the petitioner in the criminal cases, which formed the primary basis for the finding regarding the proved charges of misconduct and indiscipline cannot be sustained in view of the subsequent acquittal.

26. In such view of the matter, the impugned order is hereby set aside with liberty to the disciplinary authority to pass a fresh order confining strictly to the charge of unauthorized absence of the petitioner and to pass an appropriate and proportionate order of punishment within a period of four weeks from the date of production of a certified copy of this order.

27. Thereafter, subject to the fresh order so passed by the respondents, the petitioner shall be reinstated in service. It is further provided that upon such reinstatement, the petitioner shall be granted continuity of service and other consequential benefits, however he shall not be entitled to back wages for the period from the date of removal

till his reinstatement.

28. The writ petition is accordingly, **allowed.**

(Anish Kumar Gupta,J.)

August 5, 2026
Ashish Pd.