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

Date of decision: 10.10.2025

+ W.P.(C) 15591/2025 & CM APPL. 63795/2025, CM APPL. 63796/2025, CM APPL. 63797/2025
EMPLOYEES STATE INSURANCE CORPORATION &
ORS.Petitioners

Through: Mr. T. Singhdev, Ms. Yamini Singh, Mr. Abhijit Chakravarty, Mr. Tanishq Shrivastava, Ms. Raman Preet Kaur, Mr. Sourabh Kumar, Mr. Bhanu Gulati and Mr. Vedant, Advs.

versus

VINOD KUMARRespondent
Through: Ms. Shivanshi Bhardwaj, Mr. Himanshu Bhardwaj and Mr. Asheesh Bhardwaj, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 20.11.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 2337/2022, titled ***Vinod Kumar v. Employees State Insurance Corporation & Ors.***, allowing the O.A. filed by the respondent herein, with the following directions:

“8. For the reasons explained hereinabove, the impugned order dated 09.10.2020 is quashed and set aside to the extent it treats the



period of dismissal of the applicant to acquittal as dies non. The O.A. is allowed with the following directions:-

- a) The respondents shall pass necessary orders treating the period of dismissal till the decision of the Hon'ble High Court of Delhi as regularized.*
- b) The applicant would be entitled to benefits on notional basis for the said period.*
- c) After extending notional benefits, the pay of the applicant shall be refixed from the date of joining.*
- (d) As the applicant is stated to have retired on attaining the age of superannuation, his pension shall also be refixed.*
- e) The applicant shall be entitled to arrears of pay and pension both from the date of his acquittal.*
- f) It is clarified that the applicant shall not be entitled to actual benefits in terms of back wages for the period he was dismissed till he was acquitted by the Hon'ble High Court of Delhi.*

9. We are in agreement with the learned counsel for the respondents that the applicant is not entitled to actual benefits for the period under contention as he has not worked during the same."

2. To give a brief background of the facts in which the present petition arises, the respondent was working as an Assistant with the petitioner no.1, and was taken into police custody on 15.04.1999 for a period exceeding 48 hours in connection with FIR Nos. 169/99 and 208/99 for the offences punishable under Section 120-B of the Indian Penal Code, 1860 (in short, 'IPC') as well as under Section 302 read with Section 120-B of the IPC, on the allegation of conspiracy and murder of his wife. He was deemed to have been placed under suspension on 22.04.1999 with effect from 15.04.1999, in terms of



Regulation 10(2)(a) of the Employees' State Insurance Corporation (Staff & Conditions of Service) Regulation, 1959 (corrected up to 18.01.1992) and vide Order No. 11-C/11/14/522/99 dated 18.09.2001, he was placed under suspension with immediate effect. Later, he was convicted in the above FIRs, which had resulted into Session Case No. 132/2001, by an Order dated 06.01.2003 passed by the learned Additional Sessions Judge, Delhi, and visited with a sentence of life imprisonment and a fine.

3. Consequent upon his conviction, a Show Cause Notice dated 23.04.2003 was issued to him by the petitioner, proposing a penalty of dismissal from service. Ultimately, the respondent was dismissed from service by an Order dated 23.07.2003 passed by the petitioners.

4. The respondent was acquitted of the above charges by the Judgment dated 24.07.2018 passed by this Court in Criminal Appeal 49/2003, titled ***Vinod & Anr. v. The State (NCT of Delhi)***, *inter alia* observing as under:

“61. Consequently, the Court is of the view that the prosecution has failed to prove important links in the chain of circumstances qua the murders of both Purnima and Ajay Sharma beyond all reasonable doubt. The prosecution has also failed to prove that the chain of circumstances point unerringly to the guilt of A-1 and A-2 and no one else. Both the Appellants are, therefore, entitled to the benefit of doubt.

62. The Appellants are acquitted of the offences punishable under Sections 120B and 302/120B IPC. The appeal is allowed. The impugned judgment of the trial Court and the consequent order on sentence qua A-1 and A-2 are hereby set aside. Their personal bonds and



bail bonds stand discharged."

5. The Special Leave Petition filed by the Government of NCT of Delhi challenging the above Judgment, being SLP (Crl.) Diary No. 36775/2019 titled ***The State (NCT of Delhi) v. Vinod & Anr.***, was dismissed by the Supreme Court *vide* its order dated 18.11.2019.

6. The respondent thereafter submitted representations seeking his reinstatement, which eventually led to the passing of the Order dated 09.10.2020, the relevant portion of which reads as under:

"NOW, THEREFORE, the undersigned hereby sets aside the order of dismissal from services of ESI Corporation and order as under- Shri Vinod Kumar, Assistant be re-instated in service of the Corporation with immediate effect. "the actual monetary benefits will be admissible to the official form date of joining and notionally from the date of his acquittal. The intervening period between the date of dismissal, including the period of suspension, and the date of judgement of court may be treated as 'dies-non'. The interim period i.e. date following the date of judgement till the official joins the duty will be treated as 'on leave of any kind'. He may be entitled for consequential benefits according to the rule on the subject."

7. Being aggrieved by the treatment of the period between the date of his dismissal, including the period of suspension, till the date of Judgment of the High Court acquitting him of the charge, as *dies non*, the respondent approached the learned Tribunal by way of the above O.A.

8. As noted hereinabove, the learned Tribunal allowed the O.A., directing that the period between the date of dismissal from service till



the date of acquittal of the respondent, shall be treated as one spent on duty for the purposes of granting notional benefits to the respondent without actual pay.

9. The petitioners have challenged the said Order before this Court primarily contending that, in terms of FR 54 (4) and FR 54 (5), it is for the competent authority of the petitioners to decide whether the period or any sub-period thereof between the date of dismissal from service till the date of reinstatement of an employee, is to be treated as one spent on duty. The learned counsel for the petitioners submits that the learned Tribunal has erred in taking away this discretion from the petitioners and directing that the said intervening period between the respondent's dismissal till the decision of the High Court, be treated as one spent on duty. He further submitted that reinstatement with all consequential benefits does not automatically follow from an acquittal. In support of the challenge, reliance is placed on the Judgment of the Supreme Court in *Sukhdarshan Singh v. State of Punjab & Ors.*, 2022 SCC OnLine SC 255.

10. The learned counsel for the petitioners submits that in the present case, the acquittal of the respondent was by extending a benefit of doubt, and was not an honourable acquittal. He submits that the respondent's acquittal did not constitute a positive finding of innocence or a finding of wrongful conviction, therefore, it was for the competent authority to decide if the entire period between the date of dismissal from service to the date of reinstatement or any sub-period thereof has to be treated as one spent on duty, and if the benefit is to be extended to the respondent accordingly. He submits that the learned Tribunal has erred in treating



the acquittal of the respondent as being honourable in nature.

11. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that the respondent had been dismissed from service without holding a departmental inquiry and only on the basis of his conviction in the above-mentioned criminal case. He submits that where an employee is dismissed from service on the basis of conviction in a criminal case not arising out of any departmental dereliction of duty, the acquittal has to be treated as honourable, inasmuch as in criminal jurisprudence, there is nothing called an honourable acquittal. He submits that the acquittal can be on the basis of extending a benefit of doubt, which would mean that the prosecution has been unable to establish the guilt of the accused beyond reasonable doubt, which is the standard required in such criminal prosecution. In support, he places reliance on the Judgment of this Court in ***Union of India v. Jagdamba Singh***, 2015:DHC:5191-DB.

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

13. From the above narration of facts, it is evident that the respondent was dismissed from service solely on account of his conviction in the above-mentioned criminal case. The said criminal case did not arise out of any dereliction of duty or any act attributed to the respondent in the course of performance of his duties with the petitioners. It is also not denied that the respondent eventually stood acquitted by this Court *vide* Judgment dated 24.07.2018, which was upheld by the Supreme Court.

14. Due to the acquittal, the petitioners directed the reinstatement of the respondent in service, *vide* Order dated 09.10.2020. However, they



further directed that the period between the date of suspension of the respondent till the date of his reinstatement, shall be treated as *dies non*.

15. The learned Tribunal held that once the respondent has been acquitted of the charges and has been directed to be reinstated, the period between the date of his dismissal till the date of his reinstatement cannot be treated as *dies non* and, at the same time, the respondent would only be entitled to notional benefits, and not the actual benefits for this period.

16. We find no infirmity in the direction issued by the learned Tribunal.

17. In *Deputy Inspector General of Police and Anr. v. S. Samuthiram*, (2013) 1 SCC 598, the Supreme Court discussed the meaning of the expression "*honourable acquittal*" and held that where the accused is acquitted after full consideration of the prosecution's evidence and wherein the prosecution has miserably failed to prove the charges levelled against the accused, it can positively be said that the accused was honourably acquitted. We may quote from the Judgment as under:

"24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the Code



of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

18. The above principle was followed by the Supreme Court in ***Joginder Singh v. Union Territory of Chandigarh and Ors.***, (2015) 2 SCC 377; and by Division Bench of this Court in ***Manoj v. Union of India & Ors.***, 2016:DHC:4593-DB, and ***Rajesh v. Directorate General Sashastra Seema Bal & Anr.***, 2024:DHC:8366-DB.

19. In ***Jagdamba Singh*** (supra), while considering a case arising out of almost similar facts, a Division Bench of this Court emphasized that where the acquittal arises after a complete trial, the use of the words, 'extension of benefit of doubt' cannot alone be determinative for denying the benefit of the intervening period from being treated as one spent on duty. We quote from the Judgment as under:

*"13. While passing the impugned order the Tribunal has relied upon **Union of India v. Jayaram**, reported at AIR 1960 Madras 325, wherein the Division Bench has held that the terms "honourable acquittal" or "fully exonerated" are unknown in the Code of Criminal Procedure or in criminal jurisprudence. Relevant portion of the judgment reads as under:*

"There is no conception like "honourable acquittal" in Criminal P.C. The onus of establishing the guilt of accused is on the prosecution, and if it fails to establish the



guilt beyond reasonable doubt, the accused is entitled to be acquitted. Clause (b) of Article 193 of the Civil Service Regulations which says that when a Government servant who was under suspension is honourably acquitted, he may be given the full salary to which he would have been entitled if he had not been suspended applies only to the case of the departmental enquiry.

Where the servant was suspended because there was a criminal prosecution against him, and he was acquitted therein, and reinstated he is entitled to the general law, to the full pay during the period of the suspension. To such a case Article 193 (b) does not apply."

*14. The Tribunal has further relied upon in the case of **Jagmohan Lal v. State of Punjab Through Secretary to Punjab Government Irrigation and Others**, reported at AIR (54) 1967 Punjab and Haryana 422 (Punj.) Relevant portion of the judgment reads as under:*

"The Interpretation which has been put by the Government on the rule is incorrect. The blame which attached to the petitioner was that there was a criminal charge against him under which he was standing his trial. The moment he is acquitted of the charge, he is acquitted of the blame. In criminal law, the Courts are called upon to decide whether the prosecution has succeeded in bringing home the guilt to the accused. The moment the Court is not satisfied regarding the guilt of the accused, he is acquitted. Whether a person is acquitted after being given a benefit of doubt or for other reasons, the result is that his guilt is not proved. The Code of Criminal Procedure does not contemplate honourable acquittal. The only words known to the Code are 'discharged' or



'acquitted' The effect of a person being discharged or acquitted is the same in the eyes of law. Since, according to the accepted notions of imparting criminal justice, the Court has to be satisfied regarding the guilt of the accused beyond a reasonable doubt, it is generally held that there being a doubt in the mind of the court the accused is acquitted."

15. The Tribunal has also relied upon **Ramsinhji Viraji Rathod, Parmanand Society v. The State of Gujarat and Another**, reported at 1971 SLR 473. Relevant portion of the judgment reads as under:

"7. Clause (b) of Article 193 of the Civil Service Regulations, which was under consideration before the Madras High Court was substantially similar to our Rule 152, with this difference, that instead of the words "fully exonerated" the words were "honourably acquitted. With respect we are in agreement with the reasons of Rajamannar, C.J. and in our opinion, it is not open to the authorities concerned to bring in the concept of honourable acquittal or full exoneration so far as the judgment of the Criminal Court is concerned. In a criminal trial the accused is only called upon to meet the charge leveled against him and he may meet the charge - (a) by showing that the prosecution case against him is not true or (b) that it is not proved beyond reasonable doubt; or (c) by establishing positively that his defence version is the correct version and the prosecution version is not correct. In any case of these three cases, if the Court comes to the conclusion that the prosecution has failed to establish its case beyond reasonable doubt or that the prosecution case is not true or that the defence version is correct and is to be preferred as against the prosecution version, the Criminal Court



is bound to acquit the accused. The accused is not called upon in every case to establish his complete innocence and it is sufficient for the purposes of criminal trial that he satisfies the Court that the prosecution has not established its case beyond reasonable doubt. Since he is not called upon to prove a positive case, the concept of honourable acquittal or full exoneration can have no place in a criminal trial and it is because of this reasoning that we agree with the observations of Rajamannar, C.J. In Jayaram's case, AIR 1960 Mad 325."

16. Further in the case of **Bhag Singh v. Punjab and Sind Bank**, reported at 2006 (1) SCT 125, the Tribunal has taken note of the observations made by a Division Bench of Punjab and Haryana High Court. Relevant portion of the judgment reads as under:

"In both the cases, inspite of the clear observations that there was no evidence against the petitioner, the trial court observed that the accused are given benefit of doubt and acquitted of the charges framed against them. Relying on the aforesaid observation, the respondents have denied the benefit of full pay and allowances to the petitioner. In our opinion, the mere use of the expression "benefit of doubt" or "not proved beyond reasonable doubt" by the trial Court or the appellate court, cannot be permitted to convert an acquittal on the ground of no evidence, to something less than that. The concepts of "Honourable Acquittal", "fully exonerated" or "acquitted of blame" are all unknown to the Criminal Procedure Code, 1973. Therefore, the term "benefit of doubt" cannot detract from the Impact of the acquittal."

17. In the case of **Andhra Bank v. W.T. Seshachalam**, reported at 2004 (2) SLJ (SC)



254, it has been held that when criminal proceedings are launched after investigation by an outside agency and the employee is acquitted of the criminal charge, he would be entitled to full pay and allowances as subsistence allowance for the period of suspension,

*18. Further in the case of **Commissioner of Police v. Om Prakash and Others**, reported at 2004 (3) SLJ 272, it was held that if one is acquitted by the Court, the entire period of suspension is to be treated as duty for all purposes.”*

20. In **Sukhdarshan Singh** (supra), which has been relied upon by the learned counsel for the petitioners, the employee had been convicted of offences under Section 324 and Section 506 of the IPC. However, his sentence was reduced and taking that into account, the employer had been directed reinstatement of the employee in service. It was in those facts that the Supreme Court held that it was for the employer to determine how the period from the date of dismissal to the date of reinstatement is to be treated. The said Judgment, however, does not apply to the facts of the present case.

21. Accordingly, we find no infirmity in the Order passed by the learned Tribunal.

22. The petition, along with the pending applications, is dismissed.

NAVIN CHAWLA, J

MADHU JAIN, J

OCTOBER 10, 2025/b/k/Yg