



2025:DHC:219-DB



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

+ W.P.(C) 97/2025

DELHI POLICE & ORS.

.....Petitioners

Through: Mr. Syed Abdul Haseeb, CGSC
for Delhi Police with Pairvi Officer ASI
Jagbir Singh

versus

AJIT SINGH

.....Respondent

Through: Mr. Anil Singal, Advocate

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

08.01.2025

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C. HARI SHANKAR, J.

1. On the allegation that he had submitted a forged Employment Exchange Card while applying for recruitment to the post of Constable (Exe) in the Delhi Police in 2002, FIR 185/2004 was lodged against the respondent under Sections 420/468/471 of the Indian Penal Code, 1860¹ at PS Mukherjee Nagar. Following this, on the same allegations, a Departmental Enquiry was also initiated against the respondent, under the provisions of the Delhi Police (Punishment and Appeals) Rules, 1980² *vide* order dated 27 July 2012³. Following the issuance of the chargesheet, an Inquiry Officer⁴ was appointed to

¹ "IPC", hereinafter

² "DPPAR", hereinafter

³ "the chargesheet", hereinafter

⁴ "IO", hereinafter



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enquire into the allegations.

2. During the pendency of the disciplinary proceedings, the respondent was convicted of the charges against him in FIR 185/2004 by judgment dated 22 May 2015, rendered by the learned Additional Chief Metropolitan Magistrate⁵, Rohini. This was followed by order dated 25 June 2015 by the learned ACMM sentencing the respondent to undergo simple imprisonment of two years for the offence under Section 420 IPC and simple imprisonment for one year each for the offences under Section 468 and 471 IPC, with the sentences directed to run concurrently, apart from cumulative fine of ₹ 5,000/- with default simple imprisonment of one month.

3. Consequent upon the aforesaid judgment and sentence, rendered by the learned ACMM, the Disciplinary Authority⁶ in exercise of its power under Rule 11(1) of the DPPAR dismissed the respondent from service *vide* order dated 1 March 2016.

4. The disciplinary proceedings instituted against the respondent on 27 July 2012 were kept in abeyance by the petitioners *vide* order dated 16 March 2016.

5. In the meanwhile, the respondent appealed against the judgment and order on sentence dated 22 May 2015 passed by the learned ACMM to the learned District & Sessions Judge, Rohini.

⁵ "learned ACMM", hereinafter

⁶ "DA", hereinafter



6. The learned ASJ, by judgment dated 5 January 2016, reversed the judgment and order on sentence passed by the learned ACMM and acquitted the respondent of the allegations against him. Paras 10 to 14 of the judgment of the ASJ may be reproduced thus:

“10. Admittedly, the allegedly forged document i.e. the Employment Exchange card Ex. P-2 was never sent to FSL for expert opinion. In view of fact that the concerned official Le. PW-6 had admitted that the clerk affixing the stamp might have affixed wrong date stamp on the card, it was imperative to obtain an expert opinion regarding tampering with upon the document in question. As of now, there is nothing on record to show that the date originally mentioned on the Employment Exchange card was 26 March 2002 which had been altered by the accused to 6 March 2002.

11. The accused/appellant had admitted during course of his statement recorded U/s 313 Cr. P.C that he got himself registered with the Employment Exchange on 26.3.02. No doubt, he has mentioned the date of registration in the Delhi Police Recruitment Application form as being 6.3.2002, but in view of fact that the Employment Exchange card also bears the same date, and in view of fact that there is no evidence on record to the effect that date on the card had been tampered with, it cannot be opined that wrong mentioning of date in the application form was with some criminal intention.

12. It is settled principle of law that prosecution had to succeed its case on basis of legally admissible, cogent evidence and cannot take benefit of weaknesses of defence. It was for the investigating agency to collect evidence and for prosecution to prove it in court that it was the accused who had tampered with the date on the Employment Exchange card to make himself eligible for recruitment. As already observed herein above there is no legally admissible evidence on record in this regard. Prosecution having failed to discharge its onus, it cannot take benefit of weakness of defence qua the accused having mentioned date of registration as being 6.3.02 while he got himself registered on 26.3.02. In considered opinion of this court element of criminality cannot be said 'to be attached to the act committed by the accused.

13. In view of aforesaid, this Court is of considered opinion that prosecution having failed to prove its case to the hilt qua guilt of accused and in view of fact that as per testimony of PW6, affixation of stamp of wrong date on the card could not be ruled



out, a doubt arises in mind of this court regarding culpability of the accused and benefit thereof has to be granted to him.

14. Accordingly, while granting benefit of doubt to accused, the appeal is accepted. The impugned judgment and order on sentence are hereby set aside and accused ordered to be acquitted in this case.”

7. Consequent on the aforesaid acquittal of the respondent in appeal, he was reinstated in service under Rule 11(2)⁷ of the DPPAR and the departmental enquiry against him which had been placed in abeyance was revived by order dated 5 July 2017.

8. The disciplinary proceedings culminated in order dated 27 March 2018, passed by the DA, awarding, to the respondent, the punishment of permanent forfeiture of service and reduction to the initial stage of appointment at the rank of Constable with proportionate reduction of pay. It was additionally, directed that the suspension period of the respondent from 23 July 2004 to 5 January 2005 and the period of his termination from 6 January 2005 to 22 September 2011 and dismissal from 1 March 2016 to 29 June 2017 would be treated as not spent on duty and would not be regularised.

9. The respondent appealed against the aforesaid decision of the DA. The Appellate Authority rejected the appeal on 22 March 2019.

⁷ 11. **Punishment on judicial conviction. –**

(1) When a report is received from an official source, e.g. a court or the prosecution agency, that a subordinate rank has been convicted in a criminal court of an offence, involving moral turpitude or on charge of disorderly conduct in a state of drunkenness or in any criminal case, the disciplinary authority shall consider the nature and gravity of the offence and if in its opinion that the offence is such as would render further retention of the convicted police officer in service, prima facie undesirable, it may forthwith make an order dismissing or removing him from service without calling upon him to show cause against the proposed action provided that no such order shall be passed till such time to result of the first appeal that may have been filled by such police officer is known.

(2) If such police officer is acquitted on second appeal or revision, he shall be reinstated in service from the date of dismissal or removal and may be proceeded against departmentally.



10. Aggrieved thereby, the respondent approached the Central Administrative Tribunal⁸ by way of OA 380/2020.

11. Following an earlier order passed by it in *Satyapal Singh Yadav v GNCTD*⁹, the Tribunal allowed the respondent's OA 380/2020, quashed the entire disciplinary proceedings against the respondent and directed that he be reinstated in service with immediate effect.

12. Aggrieved thereby, the Delhi Police, through the GNCTD, has approached this Court by way of the present writ petition.

13. We have heard Mr. Syed Abdul Haseeb, learned CGSC for the petitioners and Mr. Anil Singal, learned Counsel for the respondent.

14. Mr. Haseeb submits that, inasmuch as the respondent was acquitted on benefit of doubt, his acquittal would not *ipso facto* entitle him to reinstatement in service. He emphasises on the seriousness of the allegation against the respondent, which partook of criminal intent, as it involved forgery and fabrication of documents. He further submits that the decision to dismiss the respondent from service was taken by the DA, keeping in mind the nature of the allegations against the respondent and the fact that the Delhi Police is a disciplined force.

15. Having heard Mr. Haseeb, we find no reason to interfere with the impugned judgment. The grounds on which the learned ASJ has

⁸ "the Tribunal", hereinafter

⁹ MANU/CA/0216/2024



acquitted the respondent on 5 January 2016 read thus:

“11. The accused/appellant had admitted during course of his statement recorded U/s 313 Cr. P.C that he got himself registered with the Employment Exchange on 26.3.02. No doubt, he has mentioned the date of registration in the Delhi Police Recruitment Application form as being 6.3.2002, but in view of the fact that the Employment Exchange card also bears the same date, and in view of the fact that there is no evidence on record to the effect that date on the card had been tampered with, it cannot be opined that wrong mentioning of date in the application form was with some criminal intention.

12. It is settled principle of law that prosecution had to succeed its case on basis of legally admissible, cogent evidence and cannot take benefit of weaknesses of defence. it was for the investigating agency to collect evidence and for prosecution to prove it in court that it was the accused who had tampered with the date on the Employment Exchange card to make himself eligible for recruitment. As already observed herein above *there is no legally admissible evidence on record in this regard. Prosecution having failed to discharge its onus*, it cannot take benefit of weakness of defence qua the accused having mentioned date of registration as being 6.3.02 while he got himself registered on 26.3.02. In considered opinion of this court element of criminality cannot be said 'to be attached to the act committed by the accused.'”

(Emphasis supplied)

16. Mr. Haseeb seeks to contend that the only person who could have benefited from the tampering with the date on the employment exchange card was the respondent. Moreover, he submits that the acquittal has to be treated as one on technical grounds.

17. Rule 12 of the DPPAR specifically proscribes departmental action against a Police Officer on a charge for which he has been tried and acquitted by a criminal court or even on a different charge relying on the evidence cited in the said criminal proceedings, irrespective of whether the said evidence was led in the proceedings or not. The rigour of this provision stands relaxed only in the five situations



envisaged in Clauses (a) to (e) of the Rule, which are self speaking in nature.

18. On the issue of whether the acquittal is to be treated as on technical grounds, the position in law is no longer *res integra*. We have recently dealt with this issue in *Delhi Police v Krishan Kumar*¹⁰, in which, by placing reliance on earlier Division Bench judgments of this Court in *George N.S. v. Commissioner of Police*¹¹, *Ex Ct (CRPF) Prem Kumar Singh v. UOI*¹² and *Additional Commissioner of Police Security v. Dinesh Kumar*¹³, we concluded thus:

“30. There is, therefore, a clear and discernible difference between acquittal on benefit of doubt and acquittal on technical grounds. A finding that the charge against the accused has not been proved, whether by returning a positive finding of innocence or even - as in many cases - by terming the acquittal to be by granting “benefit of doubt”, is *ipso facto* not an acquittal “on technical grounds”.

31. We may also refer in this context on the judgment of the Supreme Court in *Ram Lal v. State of Rajasthan*¹⁴ in which Courts were cautioned against being swept away by the use of the words “benefit of doubt” in the operative portion of the judgment of acquittal by the Criminal Court and were advised to examine the judgment of acquittal holistically to determine for themselves as to whether the acquittal was actually on benefit of doubt or honourable.

32. That aspect may not, however, specifically arise in the present case, as the protocol regarding the effect of acquittal in criminal proceedings on disciplinary proceedings as contained in Rule 12(a) of the DPPAR, is distinct and different. Where there is a statutory provision dealing with such an exigency, the Court has to be guided by the statute. *The question of whether acquittal was*

¹⁰ 2024 SCC OnLine Del 8862

¹¹ (2011) 183 DLT 226 (DB)

¹² 2019 SCC OnLine Del 7563

¹³ 2023 SCC OnLine Del 2189

¹⁴ (2024) 1 SCC 175



honourable, or on benefit of doubt, is not a circumstance envisaged in any of the clauses of Rule 12 of the DPPAR. Rule 12(a) does not use the expression “honourable” or “benefit of doubt”. Instead, it uses the expression, “on technical grounds”.

33. To repeat, *there is a clear qualitative difference between an acquittal on technical grounds and an acquittal on benefit of doubt. An acquittal on technical grounds is an acquittal on the ground of nonfulfillment of some technical parameters or requirements, such as, for example, the need for obtaining sanction before launch of prosecution. Acquittal after appreciation of evidence, even if it is facially termed as acquittal on benefit of doubt is not an acquittal on “technical grounds”. The decision in **Prem Kumar Singh** amply underscores this legal position.*

34. In the present case, a perusal of the judgment dated 25 October 2016 of the learned Special Judge, which allowed the respondent's appeal and acquitted him of the charges against him, the relevant paragraphs of which stand reproduced *supra*, clearly indicates that the acquittal of the respondent could not be said to be on “technical grounds” but was on a holistic appreciation of the evidence available. *The learned Special Judge has held that the evidence was insufficient to prove the charges against the respondent. This, therefore, could not be regarded as acquittal on “technical grounds”.*

35. Clause (a) of Rule 12 of the DPPAR, therefore, does not apply.”

(Emphasis supplied)

19. The Delhi Police is governed by Rule 12 which clearly says that, where a police officer is acquitted on the charges which form subject matter of disciplinary proceedings, the disciplinary proceedings would not proceed unless the acquittal falls within one of the exceptions engrafted in Clauses (a) to (e) of Rule 12.

20. It is nobody's case that any of clauses (b) to (e) of Rule 12 applies. In the facts of the case, and given the law enunciated *supra*, the acquittal cannot be said to be one on technical grounds either.



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21. In that view of the matter, the question of the identity of the possible beneficiary of the alleged tampering in the employment card pales into insignificance.

22. There is, moreover, a specific finding by the learned ASJ that the petitioner has not been able to prove that the respondent tampered with the employment exchange card. It is not the case of the petitioner either before the Tribunal or before this Court that this finding was reversed in any higher forum.

23. We, therefore, find no error in the judgment of the Tribunal, which is upheld in its entirety.

24. The writ petition is dismissed in *limine*.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 8, 2025

dsn/yg.

Click here to check corrigendum, if any