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

**Date of Decision: 10<sup>th</sup> August, 2026.**

# **CNR No. DLHC010211882025**

+ **W.P.(C) 4876/2025 & CM APPL. 22468/2025**

**RAM NIWAS TYAGI**

.....Petitioner

Through: Mr. Ankur Chhibber, Senior Advocate with Mr. Yogesh Kr. Mahur, Ms. Hemalatha Mahur, Ms. Yogita, Ms. Illa Shree and Mr. Harkesh P., Advocates.

versus

**GNCTD AN ORS.**

.....Respondents

Through: Mrs. Avnish Ahlawat, SC (GNCTD Services) with Mr. N.K. Singh, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

### **JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

#### ***Factual Background***

1. The Petitioner entered service of the Agricultural Produce Marketing Committee [“APMC”] on 12<sup>th</sup> December, 1977 as a Fee Collector and eventually started working as a Mandi Supervisor. Following his arrest in FIR No. 379/1996, registered at P.S. Narela, he was placed under deemed suspension with effect from 4<sup>th</sup> October, 1996.
2. On 28<sup>th</sup> September, 2002, the Additional Sessions Judge convicted the Petitioner and the other accused of offences which included Sections 147, 148, 452 and 302 read with Section 149 of the Indian Penal Code, 1860



[“IPC”]. The Petitioner was, accordingly, sentenced to imprisonment for life. APMC, acting as the Disciplinary Authority, thereafter, considered the matter. The order dated 30<sup>th</sup> December, 2002 records that the conduct of the Petitioner which led to his conviction had been considered and that APMC, in exercise of powers under Rule 19(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [“1965 CCA Rules”], imposed the penalty of dismissal from service under Rule 11(ix). No departmental inquiry was held before the dismissal. The dismissal was made effective from the date of his conviction, i.e., 28<sup>th</sup> September, 2002.

3. The criminal appeals filed by the Petitioner and the other co-accused were ultimately decided by this Court on 11<sup>th</sup> April, 2018. The Division Bench found that the prosecution had failed to prove that the Petitioner and the other co-accused had formed an unlawful assembly with the common object of killing the victim. The Court also noticed that no other member of the victim’s family had suffered any injury, that the medical evidence did not corroborate the eyewitness version in that regard and that the previous enmity between the parties could have led to embellishment. The Petitioner was, accordingly, acquitted of the charges against him.

4. The State challenged the judgment of acquittal before the Supreme Court, but the same was dismissed on 8<sup>th</sup> August, 2024. The Supreme Court noted that this Court had considered the evidence “*in extenso*” and, finding no perversity in the view taken by this Court, declined to interfere. The Petitioner’s acquittal, thus, attained finality.

5. The Petitioner, thereafter, sought restoration of his service and consequential benefits. When his representation remained undecided, he approached this Court in W.P.(C) 15415/2024. On 5<sup>th</sup> November, 2024, the



petition was disposed of with a direction to APMC to decide his representation within six weeks by a reasoned and speaking order, in the event the decision was adverse to him.

6. Pursuant to the aforesaid direction, APMC passed the order dated 15<sup>th</sup> February, 2025. The relevant portion of the order reads as follows:

*“...since the applicant was a convicted employee even on the date of superannuation, the applicant is not entitled for reinstatement in service or any retiral benefits with notional fixation of pay etc. So far as dismissal of the employee is concerned this was on account of his conviction in a criminal case involving moral turpitude. His involvement in the criminal case was his private dispute and APMC/Board had no role in initiation of those proceedings...”*

The impugned order ultimately rejects the Petitioner’s claim on the ground that he had already attained the date of superannuation and also invokes the principle of “*no work no pay*”.

7. This petition accordingly seeks setting aside of the impugned order dated 15<sup>th</sup> February, 2025 as well as the dismissal order dated 30<sup>th</sup> December, 2002; restoration of the Petitioner’s service up to 30<sup>th</sup> June, 2016, when he would have attained superannuation; consequential pensionary and retiral benefits; and monetary benefits for the intervening period. The Petitioner also challenges the treatment of the period from 4<sup>th</sup> October, 1996 to 28<sup>th</sup> September, 2002 as *dies non*.

### ***Petitioner’s Contentions***

8. In support of the petition, Mr. Ankur Chhibber, Senior Counsel appearing for the Petitioner, makes the following submissions:

8.1. The claim for back wages for the period between dismissal and superannuation is not pressed. The relief sought is confined to treating the Petitioner as having continued in service notionally until 30<sup>th</sup> June, 2016,



with corresponding notional fixation of pay only for the purpose of determining pension and other retiral dues.

8.2. The dismissal rested entirely on the criminal conviction and not upon any independent disciplinary finding. Once that conviction was set aside, the foundation on which the dismissal stood ceased to survive. The fact that the acquittal came after the Petitioner had crossed the age of superannuation may rule out actual reinstatement but cannot extinguish the service consequences which would otherwise follow from the disappearance of the conviction. Reliance is placed on ***Georgekutty Kurian & Anr. v. Bank of India & Ors.***<sup>1</sup>, where an employee who had superannuated before his acquittal was granted notional continuity for retirement benefits while being denied salary for the intervening period. Reliance is also placed on ***Kammod Singh Baghel v. the Chairman cum General Manager & Ors.***<sup>2</sup> in which the employee had similarly crossed the age of superannuation before being acquitted and was nevertheless granted notional fixation of pay up to superannuation with consequential recomputation of retiral dues.

8.3. The impugned order dated 15<sup>th</sup> February, 2025 is a non-speaking order which does not properly consider the effect of the Petitioner's acquittal, the applicable service rules or the authorities relied upon by him. The acquittal was on merits and followed a detailed appreciation of the prosecution evidence. It was, thereafter, affirmed by the Supreme Court upon dismissal of the State's appeals. Reliance is placed on ***Ram Lal v. State of Rajasthan & Ors.***<sup>3</sup> to contend that the substance of the criminal judgment, rather than merely the terminology used to describe the acquittal,

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<sup>1</sup> 2021 SCC OnLine Ker 1979.

<sup>2</sup> 2025:MPHC-GWL:14854, decided on 17<sup>th</sup> July, 2025 (High Court of Madhya Pradesh at Gwalior).



is relevant in determining the consequences of such acquittal.

8.4. The case of Satya Pal Singh Tyagi, a co-accused in the same criminal case who was acquitted by the same judgment, is also relied upon as a case involving a similarly placed employee. In that case, the Division Bench of the Delhi High Court, while considering the challenge to the order of the Central Administrative Tribunal, directed that the relevant period be treated as service for the purpose of computing retiral benefits. The Petitioner claims parity with the relief so granted.

8.5. The authorities cited by the Respondents, when read in their proper context, support rather than defeat the limited relief now pressed. Reliance is placed on *UOI & Ors. v. Jaipal Singh*<sup>4</sup>, where the Supreme Court, while denying actual back wages for the period during which the employee remained out of service following conviction, expressly directed that the same period would nevertheless be counted as service without break.

### ***Respondents' Contentions***

9. Opposing the petition, Mrs. Avnish Ahlwat, SC (GNCTD Services) appearing for the Respondents, submits as follows:

9.1. The dismissal of the Petitioner was lawful and valid. On the date of dismissal, the conviction was subsisting and the Disciplinary Authority was entitled to act under Rule 19(i) read with Rule 11(viii) of the 1965 CCA Rules, without holding a departmental inquiry. The criminal prosecution arose out of a private dispute, wholly unconnected with his employment, and was neither initiated nor pursued at the instance of APMC. The subsequent acquittal, therefore, cannot retrospectively invalidate an order of dismissal

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<sup>3</sup> 2023 INSC 1047.

<sup>4</sup> (2004) 1 SCC 121.



which was lawful when made.

9.2. The Petitioner remained a convicted employee on 30<sup>th</sup> June, 2016, the date on which he would otherwise have superannuated. His acquittal having occurred only on 11<sup>th</sup> April, 2018, nearly two years after superannuation, no question of reinstatement could arise. Since no service was rendered after dismissal, the subsequent acquittal cannot revive a service relationship which had already come to an end before retirement or entitle the Petitioner to notional fixation of pay or consequential retiral benefits for the intervening period. The Respondents have, following his acquittal, already released the retiral benefits admissible on the basis of his actual service.

9.3. Reliance is placed on *Ranchhodji Chaturji Thakore v. Superintendent Engineer, Gujarat Electricity Board*<sup>5</sup>; *Hukmi Chand v. Jhabua Cooperative Central Bank Ltd.*<sup>6</sup>; *Baldev Singh v. UOI & Ors.*<sup>7</sup> and *Jaipal Singh*. Where an employee remains out of service on account of a subsisting conviction arising from a criminal case unconnected with the employer, his subsequent acquittal does not, by itself, entitle him to consequential service benefits for the intervening period.

### ***Analysis***

10. The Petitioner does not challenge the competence of the Disciplinary Authority to act under Rule 19(i) of the 1965 CCA Rules when the conviction was subsisting, nor does he now claim back wages for the period during which he remained out of service. The surviving question is, therefore, more limited: what consequence follows when a dismissal founded solely on a criminal conviction is considered after that conviction

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<sup>5</sup> (1996) 11 SCC 603.

<sup>6</sup> (1998) 2 SCC 291.



has been set aside, particularly where the acquittal comes after the employee has crossed the age of superannuation.

11. Viewed in this setting, one part of the Respondents' submission must be accepted. The dismissal cannot be tested on the assumption that the acquittal had already taken place in December 2002. At that time, the conviction was in force. Rule 19(i) therefore permitted the Disciplinary Authority to impose an appropriate penalty based on the conduct which had led to the conviction on a criminal charge. The pendency of the criminal appeal did not oblige APMC to keep the disciplinary decision in abeyance.

12. The legality of the dismissal when made, however, does not end the inquiry. The Court must still determine the effect of the later reversal of the conviction on which the dismissal was founded. The answer depends, in the first instance, on the nature of the dismissal and, in particular, on whether it rested solely on the conviction or followed an independent departmental finding.

13. The law draws a clear distinction between these two situations. In the first, an employee is dismissed on findings returned in an independent departmental inquiry. In the second, the employer acts without holding such inquiry and proceeds solely on the basis of a criminal conviction under Rule 19(i). An acquittal does not ordinarily erase findings independently returned in the first category. The second category stands on a different footing, because the dismissal derives its foundation from the conviction itself.

14. In *Divisional Controller, Karnataka State Road Transport Corp. v. M.G. Vittal Rao*<sup>8</sup>, the Supreme Court drew a distinction between the two

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<sup>7</sup> (2005) 8 SCC 747.

<sup>8</sup> (2012) 1 SCC 442.



situations. It observed that the question of reinstatement following acquittal arises where the dismissal was based on the conviction by the criminal court under Article 311(2)(b) of the Constitution or an analogous provision in the applicable rules. Where a departmental inquiry has been held independently of the criminal proceedings, an acquittal in the criminal case is of no assistance, since the standards of proof in the two proceedings are different. The present case falls in the former category, as the dismissal was founded solely on the Petitioner's conviction and no departmental inquiry was held.

15. ***SBI & Anr. v. Mohammed Abdul Rahim***<sup>9</sup> is also instructive. The Supreme Court held that where the employer chooses not to initiate a departmental proceeding and acts only on the basis of the conviction in the criminal prosecution, it is bound by the final verdict in the event of a reversal of the conviction. The Court further held that, upon acquittal by the appellate court, the conviction stood obliterated and the substratum of the cause that had led to the employee's dismissal ceased to exist, entitling him to reinstatement. The issue of back wages, however, was held to stand on a somewhat different footing and was required to be considered separately.

16. The foregoing distinction is central to the controversy. Two questions must be kept separate. First, whether the Petitioner can claim salary for a period during which the employer could lawfully keep him out of service on the strength of a subsisting conviction. Secondly, whether, after that conviction has been reversed, the same period must still be ignored while computing qualifying service and retirement benefits. The first question is no longer pressed. The second alone survives.

17. Read closely, the decisions relied upon by the Respondents do not





establish that the intervening period must be treated as a break in service for all purposes.

18. In ***Ranchhodji Chaturji***, the employee had been dismissed based on his conviction under Section 302 read with Section 34 of IPC and was subsequently acquitted by the High Court. While disposing of his writ petition, the High Court directed his reinstatement with continuity of service but denied back wages. The employee thereafter challenged the denial of back wages before the Supreme Court. The Supreme Court noted that, consequent upon his acquittal, he was entitled to reinstatement since his service had been terminated on the basis of the conviction. The only question before it was whether he was entitled to back wages. The Court declined that claim, holding that the Petitioner had disabled himself from rendering service on account of his conviction and incarceration and that each case had to be considered in its own backdrop. ***Ranchhodji Chaturji*** is, therefore, an authority on back wages; it is not an authority for denying continuity of service.

19. ***Jaipal Singh*** is of direct assistance. The respondent had been convicted under Section 302 read with Section 34 of IPC and was thereafter acquitted by the High Court. The Supreme Court held that the department could not be faulted for having kept him out of service during the period of his conviction and was therefore entitled to deny back wages for the period during which he was not in service. At the same time, since the earlier discharge was on account of the criminal proceedings and conviction only, the Court directed that, except for the purpose of denying actual payment of back wages, the period would be counted as service without any break. The

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<sup>9</sup> (2013) 11 SCC 67.



relevant portion of the decision is reproduced below:

*“...except for the purpose of denying the Respondent actual payment of back wages, that period also will be counted as period of service, without any break.”*

20. The distinction is, therefore, clear. Denial of actual wages for the period of absence does not, by itself, mean that the period cannot be counted as service. The same understanding of ***Jaipal Singh*** appears in ***Jaipur Vidyut Vitran Nigam Ltd. & Ors. v. Nathu Ram***<sup>10</sup>. While distinguishing ***Jaipal Singh*** on account of the specific Circular applicable to the employee in that case, the Supreme Court expressly noted that ***Jaipal Singh*** had held that an employee was not entitled to back wages for the period of absence from dismissal to reinstatement, *“which would otherwise be counted towards his service.”*

21. ***Baldev Singh***, however, requires consideration. The case arose in the context of the Indian Army and involved an employee who, after his acquittal, did not resume duty despite repeated communications from the authorities. The Supreme Court noted that he had not rendered actual service during the disputed period and that, upon its exclusion, he had not completed the requisite fifteen years of service for entitlement to pension. The Court also observed that the effect of termination on account of conviction was not diluted by the subsequent acquittal for the purpose of counting service.

22. ***Baldev Singh***, however, does not lay down that a period between dismissal on conviction and subsequent acquittal can, in every case, never be counted for retirement purposes. The decision must be understood in the

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<sup>10</sup> (2010) 1 SCC 428.



context in which it arose: the employee was acquitted while still within the service framework, was directed to be reinstated, was repeatedly called upon to resume duty, and nevertheless did not do so. The present case stands differently. The Petitioner's acquittal attained finality only after he had already crossed the age of superannuation, and the relief now sought is confined to notional continuity for the limited purpose of computing retiral benefits. **Baldev Singh**, therefore, does not conclude the question whether such notional continuity may be granted where the dismissal rested solely on a conviction which has subsequently been set aside.

23. The Respondents' emphasis on the Petitioner's conviction as on 30<sup>th</sup> June, 2016 explains why actual reinstatement could no longer have been granted after that date. Superannuation, however, does not make notional service an impossibility in law. Where the employment relationship cannot be restored, the Court may nevertheless determine its legal consequences for the limited purpose of retiral benefits. The point is illustrated by the two decisions as noted hereinafter.

24. In **Georgekutty Kurian**, the employee had been compulsorily retired solely on the basis of his criminal conviction and was acquitted only after his date of superannuation had passed. The Bank thereafter withdrew the order of compulsory retirement and notionally permitted him to continue in service up to the date of superannuation but denied salary for the intervening period on the ground that he had not actually rendered service. The Kerala High Court held that the period was nevertheless required to be treated as notional service for the purpose of computing terminal and retiral benefits, including pension and gratuity, and also directed extension of the applicable pay revision.



25. ***Kammod Singh Baghel*** is also particularly relevant. The employee had been terminated on account of his conviction, crossed the age of superannuation while his criminal appeal was pending and was acquitted thereafter. The Madhya Pradesh High Court found that, upon acquittal, the sole basis of the termination had ceased to exist and, since the employee had crossed the age of superannuation in the meantime, directed notional fixation of his salary from the date of termination until superannuation and settlement of his retiral dues, including arrears of pension, on that basis. The question of actual salary and allowances for the intervening period was left to be considered separately.

26. There is also an unusual feature of the record. Satya Pal Singh Tyagi, a co-accused in the same FIR and a beneficiary of the same judgment of acquittal dated 11<sup>th</sup> April, 2018, pursued a similar claim against the Municipal Corporation. The Tribunal directed his reinstatement from 19<sup>th</sup> March, 2004 until his date of superannuation on 30<sup>th</sup> June, 2017, with consequential benefits including retiral benefits. When that order was challenged before this Court, the Division Bench<sup>11</sup> stayed the direction for release of arrears of salary for the intervening period, while expressly providing that, for the purpose of retiral benefits, the period from 19<sup>th</sup> March, 2004 to 30<sup>th</sup> June, 2017 would be treated as having been spent in service. The relevant portion reads:

*“...the period between 19.03.2004 till 30.06.2017 for the Respondent shall be treated to be spent in service and, therefore, he shall be entitled to the notional benefits of the same for the purposes of calculating the retiral benefits.”*

27. The order is interlocutory and is not treated as a precedent governing



the present case. Its relevance is nevertheless limited but real. It concerns a co-accused arising from the same criminal proceeding and acquitted by the same judgment, and the Division Bench, while staying the direction for arrears of salary, preserved the treatment of the intervening period as service for calculating retiral benefits. It, thus, reflects the same distinction relevant to the present controversy: arrears of salary may stand on one footing, while notional service for computing retiral benefits may stand on another.

28. Nor does the outcome depend upon attaching a particular label to the acquittal. In *Ram Lal*, the Supreme Court observed that expressions such as “*benefit of doubt*” and “*honourably acquitted*” are not to be understood as “*magic incantations*” and that the Court must examine the substance of the criminal judgment rather than the form of expression used. The Court noted that the acquittal in that case followed full consideration of the prosecution evidence and a finding that the prosecution had miserably failed to prove the charge. The same approach is warranted here. The acquittal followed a detailed appraisal of the prosecution evidence, and the State’s challenge to the acquittal before the Supreme Court did not succeed. There is, therefore, no surviving criminal finding against the Petitioner.

29. The reasoning in the impugned order dated 15<sup>th</sup> February, 2025 is, therefore, incomplete. It conflates three distinct propositions. First, the dismissal was permissible when the conviction subsisted. Secondly, the employer cannot be saddled with wages for the period during which the Petitioner remained out of service because of that conviction. Thirdly, and separately, once the conviction has been reversed, the intervening period need not automatically remain a break in service for pensionary purposes.

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<sup>11</sup> *The Commissioner MCD & Anr. v. Satya Pal Singh Tyagi* W.P.(C) 8727/2025 (Delhi High Court).



The first two propositions do not lead to the third.

30. The principle of ‘*no work no pay*’ operates in relation to remuneration for service not rendered. It does not, by itself, determine whether a period is to count as qualifying service after the sole foundation of the dismissal has disappeared. ***Jaipal Singh*** is instructive on this distinction, having denied back wages while directing that the intervening period be counted as service without break.

31. There is a further difficulty with the Respondents’ approach. It would make pensionary consequences depend, not on the basis of the dismissal or on the eventual reversal of the conviction which sustained it, but on circumstances unrelated to the basis of the service action. Thus, two employees dismissed solely on comparable convictions and later acquitted on comparable grounds could be treated differently only because one appeal is allowed before superannuation and the other after it. A similar anomaly would arise if one employee had already completed the minimum qualifying service before dismissal, while another was left short of that threshold only because the intervening period continued to be excluded on the strength of a conviction that no longer survives. Rule 19(i) cannot reasonably be read to produce such uneven pensionary consequences, nor do the authorities cited by the Respondents compel that result.

32. The Petitioner is not asking the Court to hold that he actually worked between 28<sup>th</sup> September, 2002 and 30<sup>th</sup> June, 2016, nor is the employer being asked to pay him salary for that period. The limited question is whether, after the conviction which alone formed the basis of the dismissal has ceased to exist, the interruption must continue to operate for calculating retirement benefits. In the opinion of the Court, based on the preceding



discussion, it should not.

33. The order dated 15<sup>th</sup> February, 2025 is, accordingly, set aside. As the Petitioner has already crossed the age of superannuation, actual reinstatement is no longer possible. He shall, however, be treated as having continued in service notionally from 28<sup>th</sup> September, 2002 until 30<sup>th</sup> June, 2016 for the purpose of computing pensionary and other retiral benefits. The dismissal order dated 30<sup>th</sup> December, 2002 shall, accordingly, not operate as a break in service for such purpose.

34. The Petitioner's pay shall be fixed notionally for the period from 28<sup>th</sup> September, 2002 to 30<sup>th</sup> June, 2016, in accordance with the rules and pay revisions applicable to him. Such notional fixation shall be used only for determining pension, gratuity and other admissible retiral benefits and shall not confer any right to arrears of salary or allowances for the period during which the Petitioner did not work.

35. The Respondents shall, within twelve weeks from today, recalculate the Petitioner's pensionary and retiral dues on the aforesaid basis. Any amount already paid shall be adjusted, and the differential amount, together with consequential arrears of pension, shall be released to the Petitioner. If the payment is not made within this period, the unpaid differential dues shall carry interest @6% per annum from the expiry of twelve weeks until the date of payment.

36. The writ petition is allowed to the aforesaid extent. Pending applications, if any, shall stand disposed of.

**SANJEEV NARULA, J**

**AUGUST 10, 2026/hc**