(2018) 10 P&H CK 0304

High Court Of Punjab And Haryana At Chandigarh

Case No: Letter Petent Appeal No. No.1206 Of 2018 (O&M)

Ravinder Pal	APPELLANT
Vs	
State Of Haryana And Ors	RESPONDENT

Date of Decision: Oct. 16, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 279, 304, 337, 338
- Haryana Civil Services (Punishment and Appeal) Rules, 1987 - Rule 7

Hon'ble Judges: Krishna Murari, CJ; Arun Palli, J

Bench: Division Bench

Advocate: Manoj Chahal

Final Decision: Dismissed

Judgement

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 20.02.2018, rendered by the learned Single

Judge, vide which the writ petition preferred by the appellant, assailing the order vide which he was dismissed from service as also the order passed

by the appellate authority whereby his dismissal was affirmed, has since been dismissed.

The facts that are required to be noticed are limited.

The appellant was appointed as a Driver in Haryana Roadways on 4.8.1998. While in service, the appellant caused a devastating accident on

26.2.2006, in which 14 persons lost their lives and 26 persons were severely injured. An FIR No.122, dated 26.2.2006, under Sections 279/337/338 and

304-A IPC was registered against the appellant at Police Station City, Rohtak. As a result, he was tried in a criminal case No. 320 of 2006 by the

Judicial Magistrate Ist Class, Rohtak. However, notwithstanding the criminal trial, a department enquiry was initiated against the appellant. He was

served with a charge-sheet dated 1.5.2006 under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. Significantly, the

appellant did not choose to file any reply thereto. Upon conclusion of the enquiry proceedings, the Enquiry Officer furnished his report, as per which

the misconduct alleged against the appellant was held to have been established. As a result, the disciplinary authority, vide order dated 9.11.2011,

dismissed the appellant from service. Aggrieved by the order of dismissal, the appellant preferred an appeal before the appellate authority on

23.11.2011. But that was kept pending to await the outcome of the criminal trial pending against the appellant. Vide judgment dated 4.2.2014, the

appellant was acquitted by the Judicial Magistrate Ist Class, Rohtak. However, the appellate authority, i.e. Joint Transport Commissioner, Haryana,

who was seized of the appeal filed by the appellant, vide order dated 20.2.2015, dismissed the same, for he was acquitted by the Judicial Magistrate

Ist Class, Rohtak, by giving him the benefit of doubt. That is how, the appellant filed the writ petition, referred to above, but as even that was

dismissed vide impugned order and judgment, thus, this appeal.

We have heard learned counsel for the appellant and perused the records.

Upon a consideration of the matter and material on record, the learned Single Judge concluded that in the matter at hands, the order of dismissal, dated

9.11.2011, was preceded by a departmental enquiry concluded before the acquittal of the appellant of the criminal charges. Even otherwise, different

standards of proof were required in the two proceedings. Not just that, the position of law was well settled that mere acquittal would not automatically

entitle an employee for reinstatement in service, for the acquittal has to be honourable. Whereas, the acquittal of the appellant came forth, for the

Investigation Officer was never examined, and it was only the injured (Savitri Devi) and one ASI-Khazan Singh, who supported the prosecution

version. The remaining injured eyewitnesses failed to support the case of the prosecution to connect the accused(appellant) with the commission of

the offence. As a result, while giving the benefit of doubt, the appellant was acquitted of the charges framed against him. Thus, it was not a clean

acquittal by the court, justifying the reinstatement. We are also reminded to clarify at this juncture that appellant had caused yet another accident on

4.10.2011, in which one person had died and one was severely injured. Though in the criminal trial arising out of the said accident, the appellant was

acquitted on merits, vide judgment dated 19.12.2014, but the learned Single Judge had examined the matter without going into or independent of the

second trial.

The argument advanced by learned counsel for the appellant, while placing reliance upon a decision of the Supreme Court in S. Bhaskar Reddy &

another Vs. Superintendent of Police & another [Civil Appeal No. 10592 of 2014, decided on 28.11.2014): that let the order of dismissal be set aside

and instead, the appellant be compulsorily retired from service, also lacks conviction and cannot be countenanced.

Ex facie, in the case of S. Bhaskar Reddy (supra), the appellants therein were honourably acquitted by the criminal court and even though the order of

their dismissal from service was set aside, they were not reinstated in service and rather an order of compulsory retirement from service was passed

by the Court, so that they could be awarded pensionary benefits. But, as sketched out above, that is not the position in the matter at hands. Not just

that, concededly, the appellant had barely rendered 13 years of service when the order of his dismissal from service was passed. Under the Rules,

governing the service conditions of the appellant, the requisite period, as qualifying period for pension was/is 21 years. Thus, as recorded even by the

learned Singe Judge, no useful purpose would be served to consider converting his dismissal to compulsory retirement, for the appellant had barely put

in 13 years of service, which period was far too short of qualifying service for pension. For the appellant had not only caused two fatal accidents,

which resulted in loss of lives, but the State also suffered a financial loss either owing to the compensation paid in lieu of motor accidents claims or the

expenses incurred on repairs of buses, the departmental authorities reached a conclusion that it would neither be in public interest nor in the interest of

the department to keep such a negligent official in service.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at by the

departmental authorities as also the learned Single Judge were either contrary to the record or suffered from any material illegality.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment dated 20.02.2018, rendered by the learned Single

Judge. The appeal being devoid of merit is accordingly dismissed.