

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL, HCJ  
MR. JUSTICE SAJJAD ALI SHAH  
MR. JUSTICE MUHAMMAD ALI MAZHAR

**CIVIL PETITION No. 3122 OF 2020**

(Against the judgment dated 22.09.2020  
Punjab Service Tribunal, Lahore, in Appeal  
No.2541/2019)

Faraz Naveed

...Petitioner

**VERSUS**

District Police Officer Gujrat and another

...Respondents

For the Petitioner: Mr. Aftab Alam Yasir, ASC

For the Respondents: Mr. Shaukat Rauf Siddiqui, Addl.AG, Punjab.  
With Mr.M.Aslam Gondal, Inspector Gujrat

Date of Hearing: 28.02.2022

**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J.** This Civil Petition for leave to appeal is directed against the judgment dated 22.09.2020, passed by learned Punjab Service Tribunal, Lahore in Appeal No.2541 of 2019, whereby the service appeal filed by the petitioner was dismissed.

2. The short-term chronicles of the case are as under:-

The petitioner was appointed as ASI through Punjab Public Service Commission who was indicted in FIR No.916/2014 lodged under Section 302 PPC and Section 6/7 ATA read with Article 155-C of the Police Order, 2002. After full-fledged trial, the ATC Court awarded him death sentence under Section 302 P.P.C and under Section 7 ATA. The petitioner was also convicted under Article 16 (d) of the Police Order, 2002 for imprisonment of 3 years and to pay fine. The petitioner challenged his conviction in CrI. Appeal No.500/2016 which was allowed by Lahore High Court and the petitioner was acquitted on benefit of doubt. While he was in jail, he was served a show cause notice on 08.11.2014 with the statement of allegations. After departmental inquiry, the petitioner was dismissed from service vide dismissal Order dated 10.01.2015. After acquittal, the petitioner had filed a departmental Appeal but it was dismissed, thereafter, he filed a Service Appeal in the Punjab Service Tribunal which was also dismissed vide impugned judgment dated 22.09.2020.

3. The learned Counsel for the petitioner argued that the learned Service Tribunal was not justified in dismissing the Service Appeal despite the acquittal of the petitioner as, after acquittal by the

Appellate Court from the charges, no stigma can be pleaded against him. It was further argued that in the departmental proceedings, no opportunity of hearing was provided but a major penalty was imposed. He further argued that the competent Authority failed to afford extensive hearing in the Orderly Room while summoning the petitioner from jail. No fresh evidence was recorded by the Departmental Authority and the alleged recoveries were also fictitious. Neither investigating officer joined the departmental inquiry nor was any witness of alleged recoveries or the complainant examined.

4. The learned Additional Advocate General, Punjab argued that the petitioner was found guilty of misconduct and FIR No.916/14 was also lodged against him under Section 302 PPC, Section 6/7 ATA 1997 and 155-C Police Order, 2002 at P.S. Civil Lines, Gujrat on the complaint of Syed Kausar Ali. It was further contended that, as per statement of allegations, the petitioner on 05.11.2017 along with other police officials captured an innocent person, Tufail Haider Naqvi (deceased), and took him to P.S. Civil Lines and without any legal action, kept him at police station under illegal confinement and thereafter, the petitioner murdered him with a hatchet in a room within the premises of PS Civil Lines. It was further argued that, being a public servant and member of a disciplined force, the involvement of the petitioner in a criminal case had brought a bad name to the whole police department. The Inquiry Officer found the petitioner guilty and recommended departmental action, thereafter, the petitioner was dismissed from service. It was further contended that the proceedings under criminal trial and departmental proceedings both have two different features. In the Trial Court overwhelming evidence was produced by the prosecution, hence the petitioner was awarded death penalty. The hatchet was also recovered on his pointation; however he was acquitted by the High Court in appeal on benefit of doubt.

5. Heard the arguments. The judgment of the learned Anti-Terrorism Court divulges and puts on the view that the petitioner (Faraz Naveed) was awarded multiple sentences with fine as under:-

1. Under Section 302 (b) PPC. Sentenced to death with further directions to pay the compensation under Section 544-A Cr.P.C, a sum of Rs.500,000/- to the legal heirs of deceased Syed Tufail Haider Naqvi.

2. Under Section 7 (a) of Anti-Terrorism Act, 1997. Sentenced to death with fine of Rs.500,000/- in default thereof, to further undergo 06 months S.I.

3. Under Article 155 (d) of Police Order, 2002. Imprisonment for three Years along with payment of fine of Rs.50,000/- in default thereof, to further undergo 03 months S.I.

6. Though the case in hand is germane to the claim of reinstatement of the petitioner in the Police Force on account of his acquittal based on benefit of doubt, but *in seriatim* some ephemeral series of events which resulted the conviction of the petitioner by learned Anti-Terrorism Court are indispensable which cannot be circumvented or sidestepped whereby a young man of 35 years was brutally murdered and who lost his valuable life. The eye witnesses vociferously testified the entire state of affairs beyond any shadow of doubt. The complainant, Syed Kausar Ali Naqvi (PW-10), stated that, on 05.11.2014, he along with Syed Wasi Haider (PW-11), Tufail Haider deceased and Ijaz Haider were going to attend the Majlas at Madina Syeddan Gujrat, and when they reached at Usman Plaza Chowk at about 6.45 PM, the petitioner (Faraz Naveed) apprehended his uncle Tufail Haider Naqvi, took him in a room at Police Station Civil Lines, Gujrat, started investigation and he heard the voices of his uncle outside the room. On 06.11.2014 at 4.00 AM, they saw through the window that accused Faraz Naveed (petitioner) picked up the hatchet lying there and murdered his uncle Tufail Haider Naqvi by giving repeated blows of the hatchet on his neck which was also witnessed by Wasi Haider (PW-11) and Syed Haider. The other eye witness, Syed Wasi Haider, also deposed the same facts and supported the case of the prosecution. The recovery of hatchet P-12 was made on the pointation of petitioner vide Recovery Memo Ex.PG attested by Karam Ali (PW-9) who has also supported the recovery of weapon of offence i.e. hatchet P-12 in his presence. The trustworthy ocular account and other evidence could not be shattered or wiped-out during cross examination by the defence. The eye witnesses unequivocally established their presence at the place of occurrence and the testimony of all the prosecution witnesses was found by the learned Trial Court to be reliable and confidence inspiring. The petitioner in his statement under Section 342 Cr.P.C admitted that he apprehended the deceased and brought him to Police Station Civil Lines, but he subsequently handed over the custody to the Muharrar who locked him in the room and early in the morning, he came to

know that deceased Tufail Haider committed suicide but according to learned Trial Court's judgment, neither any trustworthy evidence was produced nor he called any witnesses to substantiate his plea. No question or suggestion was put to Dr. Kaleem Ullah (PW-5) about the plea of suicide or the expert opinion rendered by him that the injuries mentioned in the postmortem report on the neck of deceased Tufail Haider Naqvi could not have been self-inflicted. After appreciating the entire evidence, the learned Trial convicted the petitioner but he was acquitted by the Lahore High Court on benefit of doubt in the death penalty case whereas the Trial Court found that the prosecution has proved its case against the petitioner beyond any reasonable doubt.

7. According to the Code of Conduct for Punjab Police Officers, <https://punjabpolice.gov.pk>, it is inter alia provided that the object of Police Order, 2002 is to place the Police under an obligation to function according to the Constitution, law and democratic aspirations of the people of Pakistan. The functioning of the Police is required to be professional, service oriented and accountable to the people by re-defining its role, its duties and responsibilities so far as prevention and detection of crime and maintenance of public order is concerned. They should always remember that on the behavior of each individual depends the reputation of the force, and the degree to which the law abiding section of the public will be willing to cooperate against law-breakers. They should remember that their behavior and conduct reflects the image of the entire force and should treat members of the public with courtesy and respect, avoiding abusive or derogatory attitude or behavior.

8. In line with the Article 3 of the Police Order, 2002, it is the downright responsibility of every police officer to behave with the members of the public with due decorum and courtesy; promote amity; guide and assist the public, particularly the poor, disabled or physically weak persons and aid individuals who are in danger of physical harm particularly women and children. Whereas under Article 4 of the Police Order, it is the duty of every police officer inter alia to protect life, property and liberty of citizens; preserve and promote public peace; ensure that the rights and privileges, under the law, of a person taken in custody, are protected; prevent the commission of offences and public nuisance; detect and bring offenders to justice; apprehend all persons whom he is

legally authorized to apprehend and for whose apprehension, sufficient grounds exist; prevent harassment of women and children in public places; afford relief to people in distress situations, particularly in respect of women and children etc. Rule 14.4 of the "The Police Rules, 1934" (Chapter Xiv- Discipline and Conduct) is also germane to the conduct of police in public which is reproduced as under:-

"14.4. Conduct in Public – (1) Every police officer shall keep his temper thoroughly under control, shall act with courtesy on all occasions and shall not allow his composure to be disturbed by the behavior of others towards him.

(2) A police officer defending himself, or lawfully enforcing his authority, shall act with calmness and shall use as little violence as possible.

(3) Police officers usually act individually in the execution of their duty. They should remember, therefore, that on the behavior of each individual depends the reputation of the force and the degree to which the law-abiding section of the public will be willing to co-operate against law-breakers".

9. Nevertheless, the petitioner was indicted and prosecuted on the charge of violent and brutal murder of an innocent citizen but simultaneously, he was also called upon to face disciplinary proceedings on account of charges of misconduct under the provisions of Punjab Police (Efficiency & Discipline) Rules, 1975 in which under Rule 2 (iii) "misconduct, means conduct prejudicial to good order or discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any omission or commission which violates any of the provisions of law and rules regulating the function and duty of a Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer".

10. It is lucidly straightened out from the record that, after proper inquiry, the petitioner was found guilty in a heinous crime and he was rightly dismissed from service. If the acquittal is found as a result of extending benefit of doubt or some other technical reasons, there is no bar for initiation of departmental enquiry and it is the prerogative rather an onerous responsibility of the employer to

consider nature of offence for an appropriate action interdepartmentally. According to Rule 16.3 of the Police Rules, 1934, it is unambiguously provided that when a Police Officer has been tried and acquitted by a criminal Court he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not, unless; a) the criminal charge has failed on technical grounds; b) in the opinion of the Court or of the Superintendent of Police the prosecution witnesses have been won over; c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the Police officer concerned; d) the evidence cited in the criminal case discloses facts unconnected with the charge before the Court which justify departmental proceedings on a different charge; and e) additional evidence admissible under Rule 16.25 (1) in departmental proceedings is available. Whereas in Sub-Rule 2, it is further explicated that "Departmental proceedings admissible under Sub-Rule (1) may be instituted against lower subordinates by the order of the Superintendent of Police but may be taken against upper subordinates only with the sanction of the Deputy Inspector-General of Police; and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of Rule 7.3 of the Civil Services Rules (Punjab), Volume I- Part 1". However in this case, the proceedings against the petitioner were initiated under Rule 6 of the Punjab Police (Efficiency & Discipline) Rules, 1975 in which no bar is encapsulated or put in a nutshell that criminal trial or the disciplinary proceedings on account of misconduct cannot be continued in parallel or simultaneously or, in case of acquittal, the wrongdoer cannot be tried departmentally on the same charges.

11. The rationale and astuteness of initiating disciplinary proceedings by the employer is to unmask whether the charges of misconduct leveled against the delinquent are proved or not and in case his guilt is proved, what action should be triggered against him under the applicable Service Laws, Rules and Regulations, which may include the imposition of minor or major penalties in accordance with the fine sense of judgment of the competent Authority. Quite the reverse, the acuteness and raison d'être to set into motion the criminal prosecution is altogether different where the prosecution has to prove

the guilt of accused beyond any reasonable doubt. Both have distinctive characteristics and attributes with regard to the standard of proof. It is well settled exposition of law that the prosecution in the criminal cases as well as the departmental inquiry on the same allegations can be conducted and continued concurrently at both venues without having any overriding or overlapping effect. The object of criminal trial is to mete out punishment of the offences committed by the accused while departmental inquiry is inaugurated to enquire into the allegations of misconduct in order to keep up and maintain the discipline and decorum in the institution and efficiency of department to strengthen and preserve public confidence. In the departmental inquiry, the standard of proof is that of "balance of probabilities or preponderance of evidence" but not "proof beyond reasonable doubt", which strict proof is required in criminal trial because the potential penalties are severe. In the case of Dr. Sohail Hassan Khan and others vs. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others (2020 SCMR 1708), this Court held that a civil servant cannot escape departmental proceedings or consequences thereof on account of his acquittal/exoneration on a criminal charge arising out of the same impugned transaction; these two are entirely different jurisdictions with different standards of proof as well as procedures; criminal prosecution requires strict proof through a narrowly jacketed procedure and, thus, State's failure on criminal plane does not provide shield of double jeopardy to a delinquent officer. Whereas in the case of District Police Officer, Mianwali and 2 others vs. Amir Abdul Majid (2021 SCMR 420), this Court again held that a civil servant facing expulsive proceedings on departmental side on account of his indictment on criminal charge may not save his job in the event of acquittal as the department still may have reasons/material, to conscientiously consider his stay in the service as inexpedient; there are additional reasons to disregard his acquittal inasmuch as criminal dispensation of justice involving corporeal consequences, comparatively, requires a higher standard of proof so as to drive home the charge beyond doubt, an exercise to be routed through a procedure stringently adversarial, therefore, factuality of the charge notwithstanding, procedural loopholes or absence of evidence, sufficient enough to sustain the charge, at times occasion in failures essentially to

maintain safe administration of criminal justice out of abundant caution. Departmental jurisdiction, on the other hand, can assess the suitability of a civil servant, confronted with a charge through a fact finding method, somewhat inquisitorial in nature without heavier procedural riders, otherwise required in criminal jurisdiction to eliminate any potential risk of error, therefore, the Tribunal has undoubtedly misdirected itself in reinstating the respondent, considering his acquittal as the sole criterion in isolation to the totality of circumstances where under he had succeeded to vindicate his position. Reference may be made to the cases of Dr. Sohail Hassan Khan and others v. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others (2020 SCMR 1708), Liaqat Ali v. Government of N.W.F.P. through Secretary Health, Peshawar and others (2011 PLC (C.S.) 990), Chairman Agricultural Development Bank of Pakistan and another v. Mumtaz Khan (PLD 2010 SC 695), Government of Pakistan through Secretary Ministry of Finance and others v. Asif Ali and others (2007 PLC (C.S.) 271), Superintendent of Police, D.I. Khan and others v. Ihsanullah (2007 SCMR 562), Sami Ullah v. Inspector-General of Police and others (2006 SCMR 554), Rector Comsats v. Ghulam Umar Kazi (2006 SCMR 1894), Executive Engineer and others v. Zahid Sharif (2005 SCMR 824), Khaliq Dad v. Inspector-General of Police and 2 others (2004 SCMR 192), Arif Ghafoor v. Managing Director, H.M.C., Texila and others (PLD 2002 SC 13), Mir Nawaz Khan v. Federal Government through Secretary, Ministry of Finance, Islamabad and 2 others (1996 SCMR 315), Talib Hussain v. Anar Gul Khan and 4 others (1993 SCMR 2177), Mud Izharul Ahsan Qureshi v. Messrs P.I.A.C. (1994 SCMR 1608), Muhammad Nazir v. The Superintendent of Police, Toba Tek Singh and others (1990 SCMR 1556) Muhammad Tufail v. Assistant Commissioner/Collector (1989 SCMR 316), Muhammad Saleem v. Superintendent of Police, Sialkot and another (PLD 1992 SC 369), Muhammad Ayub v. The Chairman, Electricity Board, WAPDA, Peshawar and another (PLD 1987 SC 195), The Deputy Inspector-General of Police, Lahore and others v. Anis-ur-Rehman Khan (PLD 1985 SC 134) and Begum Shams-un-Nisa v. Said Akbar Abbasi and another (PLD 1982 SC 413).



12. The Supreme Court of India in the case of Union Territory, Chandigarh Administration and Ors. vs. Pradeep Kumar and Anr. (2018) 1 SCC 797, held that the acquittal in a criminal case is not conclusive of the suitability of the candidates on the post concerned. While in the recent unreported judgment of Supreme Court of India in the case of Union of India vs Methu Meda in Appeal No. 6238 of 2021, (arising out of Special Leave Petition (C) No. 23856 of 2014), the precise facts were that the respondent was found involved in an offence of kidnapping for demand of ransom. He was tried before the Sessions Court but was acquitted because the complainant turned hostile. The respondent applied for the post of Constable in Central Industrial Security Force and got selected. In his credentials and antecedents, he mentioned the registration of criminal case and acquittal. As the offer letter was conditional, therefore, he was not allowed to join and his case was referred to Standing Screening Committee which examined the cases of several candidates including the respondent and passed an order that respondent was not eligible for appointment. The respondent filed Writ Petition in the High Court of Madhya Pradesh which was allowed. The said order was assailed before the Division Bench by filing Writ Appeal, but State appeal was dismissed. Finally both the judgments were challenged in the Supreme Court which took the guidance from earlier judgment rendered in the case of Mehar Singh wherein it was held inter alia that the police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. Finally the Court held as under:-

“21. In view of the aforesaid, it is clear the respondent who wishes to join the police force must be a person of utmost rectitude and have impeccable character and integrity. A person having criminal antecedents would not be fit in this category. The employer is having right to consider the nature of acquittal or decide until he is completely exonerated because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee and the decision of the Committee would be final unless mala fide. In the case of Pradeep Kumar (supra), this Court has

taken the same view, as reiterated in the case of Mehar Singh (supra). The same view has again been reiterated by this Court in the case of Raj Kumar (supra).

22. As discussed hereinabove, the law is well settled. If a person is acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient. In the said situation, the employer cannot be compelled to give appointment to the candidate.....

13. The learned counsel for the petitioner relied on the case of Dr. Muhammad Islam.Vs. Government of N.W.F.P. through Secretary, Food, Agriculture, Livestock and Cooperative Department, Peshawar and 2 others (1998 SCMR 1993). Before dilating upon the ratio decidendi of the aforesaid dictum, few facts of the case are most essential to be jot down. In this case on 21.8.1989, an FIR under Section 302/34, P.P.C. was registered against the accused on the statement of complainant at Police Station Katlang District Mardan for the murder of Sher Zamin. However, the Additional Sessions Judge, Mardan, after recording the statement of the complainant passed the following order on 9.6.1992:

"Statement of the complainant has already been recorded and placed on file. He does not charge the accused for the commission of the offence. In view of his statement, the learned S.P.P. also gave statement that he wants to withdraw from the prosecution against the accused.

In view of the above statements, no case stands against the accused, therefore, no charge is framed against them and they are discharged/acquitted from the charge levelled against them in the present case. They are on bail, their bail bonds stand cancelled and sureties discharged....."

14. This Court in the above case observed that after acquittal, the petitioner was reinstated with effect from 22nd of August, 1989 but the period from 22.8.1989 to the date of his assumption of duty was treated as extraordinary leave without pay. He filed a representation for payment of salary and allowances which was rejected then the appellant filed appeal before the N.W.F.P. Service Tribunal praying for the payment of salary and allowances to him for the said period. This claim of the appellant was contested by the Government on the ground that the acquittal of the appellant

was based on a compromise between the parties. This being the position, acquittal of the appellant cannot be held to be honourable so as to entitle him to full pay and allowances for the said period. The Tribunal vide its decision held that appellant was acquitted on the basis of compromise with the complainant therefore his acquittal cannot be treated as honourable, however this court in the above case, held that all acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. This Court further observed that the provisions of F.R. 54 (a) have been declared un-Islamic by the Shariat Appellate Bench of this Court vide judgment rendered in the case of Government of N.-W.F.P. v. I.A. Sherwani and another (PLD 1994 SC 72). We have cautiously flicked through the aforesaid judgment and discovered that the judgment is in effect focused on "FR. 53" (Fundamental Rule-53) which dealt with the entitlement of Government servants under suspension i.e. the subsistence grant at one-third of the pay of the suspended Government servants but nothing to do with "FR-54". In the end the Court held that the Rule 53 of the Fundamental Rules and the Rule mentioned in Sl. No.106 and all the parallel Rules of the Provinces are repugnant to the Injunctions of Islam to the extent that they deprive Government servants of their full salary and other benefits during the period of their suspension. The reading of judgment in the case of Dr. Muhammad Islam, (supra) unambiguously leads to the conclusion that neither in this case any charge was framed nor any conviction was recorded but in the instant case a serious charge of murder was proved in the Anti-Terrorism Court and the petitioner was convicted for death penalty however in appeal, he was extended benefit of doubt which resulted his acquittal.

15. In the case of Government of West Pakistan through the Secretary P.W.D. (Irrigation Branch), Lahore Vs. Mian Muhammad Hayat (PLD 1976 SC 202), the issue before this Court was whether the respondent was not honourably acquitted within the meaning of rule 7.3 (a) and (b) of Civil Services Rules (Punjab) Vol. I and in any event it was for the respondent to establish that he had been honourably acquitted. In fact there was a criminal proceeding connected with the misconduct of the respondent against him and some other person in the course of which the respondent had made a confessional statement under Section 164 of the Code of Criminal Procedure

before a First Class Magistrate. The respondent turned an approver and he was granted pardon. The respondent's statement and his evidence were relied on for the purpose of convicting the respondent's co-accused and this was the reason that the inquiry against the respondent was dropped, but it was ordered that a suitable entry be made in his character roll. The Court held that the very word "acquittal" implies that there must have been a trial of the case on merits followed by the acquittal of the accused. Under Rule 7.3 (a) of the Rules the acquittal should be an 'honourable' one, which implied that the acquittal must follow a finding of the Tribunal concerned that the allegations were false and not merely proved. In the same judgment, the court also received support from the following observations of a Division Bench of the erstwhile High Court of West Pakistan, Lahore Seat, in the case of Sardar Ali Bhatti v. Pakistan (PLD 1961 Lah. 664), with the approval that "the expression 'honourably acquitted' is not defined in the rules or anywhere else. We shall, therefore, give the same meaning to it as it conveys in its ordinary and natural sense. Its ordinary meaning is that it has been found that the person concerned had been accused of the offence maliciously and falsely, and that after his acquittal no blemish whatsoever attaches to him. In cases where the benefit of the doubt is given to him, or where he is acquitted because the parties have compromised, or because the parties on account of some extraneous influence have resiled from their statements, then we think that in spite of the acquittal the person concerned cannot be deemed to have been 'honourably acquitted'. This expression is not recognized in the Code of Criminal Procedure. There only the word 'acquittal' is used. It is, therefore, obvious that it is not the function of the criminal court to declare that the person concerned has been honourably acquitted or not. Having regard to the scope and meaning of the aforesaid rule, we think that it is for the revising or appellate authority to form its opinion on the material placed before it, whether such a person has been honourably acquitted or not, it is left to the absolute subjective discretion of the authority. If the authority takes the decision by using its discretion and judgment, that the person concerned has not been honourably acquitted, then in exercise of writ jurisdiction this Court cannot convert itself into a Court of appeal and substitute its opinion for the opinion of the competent authority. However, in the circumstances of the present case, and in light of what has been

stated above as to the meaning of the expression 'honourably acquitted', it is difficult to hold, even if we had the power to substitute our opinion, that the decision of the competent authority is wrong." In the case of The Deputy Inspector General of Police and Ors. Vs. S. Samuthiram ((2013) 1 SCC 598), the Court held that in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. While in the case of The State of Rajasthan and Ors. Vs. Heem Singh (AIR 2020 SC 5455), the Court held at para 34 that "In the present case, we have an acquittal in a criminal trial on a charge of murder. The judgment of the Sessions Court is a reflection of the vagaries of the administration of criminal justice. The judgment contains a litany of hostile witnesses, and of the star witness resiling from his statements. Our precedents indicate that acquittal in a criminal trial in such circumstances does not conclude a disciplinary enquiry". In the same judgment, reference of judgment rendered in the case of Southern Railway Officers Association v. Union of India (2009) 9 SCC 24 was also quoted in which the Court held at para 37 that "Acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority. The High Court did not say that the said fact had not been taken into consideration. The revisional authority did so. It is now a well-settled principle of law that the order of dismissal can be passed even if the delinquent official had been acquitted of the criminal charge".

16. Benefit of doubt, as of right, is to be given to the accused when there is equal possibility of the accused being guilty or not guilty. Ref: Muhammad Ramzan versus The State (PLJ 1984 SC 61). If the facts and circumstances of the prosecution case are susceptible and amenable to two interpretations, one in favour of the prosecution and the other in support of accused, then in such eventuality, the benefit of doubt would be extended to the accused but the employer, while considering the issue of reinstatement as aftermath of acquittal of an already dismissed employee, shall have unbridled right and authority

to dwell on and appraise the antecedent and fitness of such employee including the job profile and severity of the charges leveled against them.

17. The police force is a disciplined force with cumbersome accountability and responsibility of maintaining law and public order in the society and populace, therefore, any person who wants to be part of the disciplined force should be a person of utmost integrity and uprightness with unimpeachable/spotless character and clean antecedents. Despite acquittal, it is the privilege and prerogative of the employer which is in this case "Punjab Police Force". So, it is for the department to examine fairly and equitably whether the petitioner has been completely exonerated or not and his further induction may not become a constant threat to the discipline of the police force and public confidence and may also not demoralize and undermine the environment and frame of mind of the upright and righteous members of the force, therefore a person having criminal antecedents would not be fit to be restored or reinstated to his previous position or post.

18. As a result of above discussion, we do not find any illegality or perversity in the impugned judgment of the learned Punjab Service Tribunal. Consequently, the Civil Petition is dismissed and leave is refused.

Chief Justice

Judge

Judge

Islamabad the  
28<sup>th</sup> February, 2022  
Khalid  
Approved for reporting