

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 05 of 2024**

The General Manager (B&K Area), Central Coal Fields Limited, Kargali, P.O. + P.S. Bermo, District-Bokaro, represented through its Manager (P), B & K Area, P.O. & P.S. Bermo, District Bokaro being Mr. Padum Nath Singh aged about 43 years son of Lt. M.D. Singh both having their office at B & K Area, CCL, P.O. & P.S. Bermo, District-Bokaro.

... ...Appellant

Versus

Shankar Ram, aged about 57 years, son of Late Nirmal Ram, R/o Village-Kargali Gate, P.O.+P.S. Bermo, District-Bokaro.

.... Respondent

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Appellant :Mr. P.A.S Pati, Advocate

For the Respondent : Mr. Arwind Kumar, Advocate

08/12.12.2024

I.A. No. 3600 of 2024.

This application is filed to condone delay of 81 days in filing this appeal challenging the judgment of the learned Single Judge.

2. Mr. Arwind Kumar, learned counsel appearing for the respondent, has no objection for the condonation of the said period of delay.

3. Therefore, this application is allowed and delay of 81 days in filing this appeal is condoned.

L.P.A. No. 05 of 2024.

4. The respondent was appointed on the post of Labour Category-I under the appellant. Later he was deployed as Mechanical Helper Category-II.

He was then arrested on 06.01.2012 in connection with a criminal case No. 116 of 1997 for allegedly committing an offence under Section 302 IPC. After trial, he was sentenced to life imprisonment by the trial court.

Basing on the said conviction the appellant passed an order on 24.08.2013 dismissing him from service.

The respondent had preferred a Cr. Appeal (DB) No. 988 of 2012 before this Court challenging the judgment of conviction imposed by the trial court in S.T. No. 269 of 2004.

This Court acquitted the respondent on 2.11.2021.

Respondent then approached the appellant with the copy of the High Court judgment acquitting him in the criminal case and sought reinstatement and other benefits.

The appellant rejected it on 28.06.2022.

Challenging the said order as also the order dated 24.08.2013 dismissing him from service and also forfeiting his gratuity amount, he filed W.P(S) No. 4 of 2023.

The learned single judge in the impugned judgment held that since the only ground for dismissal of the respondent was his conviction in the criminal case, once the same is set aside in appeal by this Court, the respondent has to be reinstated into service by the appellant. He placed reliance on the judgment of the

Supreme Court in *Basanti Prasad Vs Chairman, B.S.E.B*¹.

He also set aside the impugned order dated 24.08.2013 dismissing the respondent from service which also contained a direction of forfeiture of his gratuity amount. He directed the appellant to reinstate him into service with all consequential benefits within eight weeks.

Assailing the same the appellant has filed this appeal.

5. Counsel for the appellant sought to contend that the respondent had been acquitted by the High Court on benefit of doubt, that it was not an honorable acquittal and therefore he is not entitled to be reinstated into service. Reliance is placed by the counsel for the appellant on the judgment of the Supreme Court in *Deputy Inspector General of Police and Anr. Vs. S. Samuthiram*².

That was a case where both the disciplinary action as well as criminal prosecution was conducted against a police official for misbehaving with a woman at a bus stand. In the disciplinary enquiry he was found guilty of the misconduct on the basis of evidence adduced therein but he was acquitted ultimately in criminal proceedings on the ground that certain witnesses had turned hostile. He then sought reinstatement into service on the basis of acquittal

¹(2009) 6 SCC 791

²(2013) 1 SCC 598

in the criminal case. The Supreme Court held that acquittal in criminal case does not automatically entail reinstatement since different standards of appreciation of evidence are applicable in criminal and departmental proceedings.

6. In the instant case the situation is different since there was no disciplinary action initiated against the respondent by the appellant since the charge against the appellant was under Section 302 IPC, and the incident had nothing to do with discharge of duties of the respondent as an employee of the appellant. It is therefore not permissible for the appellant to conduct any disciplinary action in the matter at all.

Once the respondent has been acquitted by the High Court in the criminal case, since the dismissal of the respondent from service was only on the basis of his conviction by the trial court, the appellant cannot refuse to reinstate the respondent into service only on a technical plea that the acquittal was not an honorable acquittal.

Therefore, we find no error in the judgment of the learned single judge setting aside the order dated 24.08.2013 (dismissing the respondent from service and also forfeiting his gratuity amount) and also setting aside the order dated 28.06.2022 passed by the appellant.

7. Counsel for the appellant however sought to contend that during the period the conviction of the respondent, the respondent cannot be held entitled to monetary benefits.

We find force in the contention of the counsel for the appellant and hold that though the respondent is entitled to continuity of service from 24.08.2013 till he is reinstated into service, and also entitled to count the service for all other purposes, he is not entitled to monetary benefit for the period 03.08.2012 to 02.11.2021 i.e. the date on which the trial court convicted him and sentenced him to life imprisonment, and the date when he was acquitted by the High Court.

8. With this modification, the judgment of the learned Single Judge is confirmed and the appeal is partly allowed. No cost.

(M.S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

Fahim/Amardeep