

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 4558 OF 2008
(Arising out of S.L.P. (C) No.9658/2006)**

Jaswant Singh ...Appellant

Versus

Union of India & Ors....Respondents

O R D E R

Leave granted.

This appeal is directed against the judgment and order dated 2.2.2006 passed by a Division Bench of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 13790/2004 whereby and whereunder the writ petition filed by the appellant herein challenging the validity of an order dated 10.5.2004 passed by the Central Administrative Tribunal, Chandigarh Bench in O.A.No.354/CH/2003 was dismissed.

The basic fact of the matter is not in dispute. Appellant herein was employed as a clerk in the services of the respondents. He was directed to join the team who conducted survey of Sanjay Labour Colony, Chandigarh. Inter-alia, on the premise that the appellant had committed misconduct, a departmental proceeding was initiated wherein, following three charges were framed against him:

" That Shri Jaswant Singh while posted and functioning as Clerk in the Labour Colony Branch of the Estate Office, UT, Chandigarh during the month of April, 1993 committed acts of gross misconduct in as much as, he participated in the conduct of a survey of the Sanjay Labour Colony Near Sukhna Chok in an unauthorized manner without any orders or authority concerned, made incorrect reports in 21 cases as falsely reporting them as residents of the said colony. He also issued the Provisional Identity Cards meant for the bonafide residents of the Sanjay Labour Colony by forging signature of Naib Tehsildar(Colonies) Shri K.S.Gill."

Admittedly, whereas charge No. 2 was proved in the departmental proceedings initiated against the appellant, he was exonerated of charge Nos. 1 and 3.

It is, furthermore, not in dispute that he was proceeded against in a criminal case. By reason of a judgment and order dated 11.10.2001, he was acquitted of the said charges.

The Criminal Court, in its judgment, opined as under:

"...As such, evidence of the prosecution is self contradictory and I have come to the conclusion that the case of the prosecution is not beyond any reasonable doubt and the evidence led by the prosecution is not sufficient to prove any charge against the accused persons beyond reasonable doubt.

In view of my afore-mentioned discussion, the prosecution has failed to prove its case beyond any reasonable doubt and by giving the benefit of doubt, the accused persons are acquitted of the charges leveled against them....." (Emphasis supplied)

Appellant filed an Original Application before the Tribunal. Relying on or on the basis of a decision of this Court in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. And Anr.- JT 1999(2) SCC 456, a contention was raised by the appellant before the Tribunal that he having been acquitted in the criminal case, the order of punishment imposed upon him in the departmental proceedings cannot be sustained.

The tribunal by its judgment opined that as a finding of fact has been arrived at that the appellant had furnished incorrect report in respect of 21 cases, in the disciplinary proceeding only because he was acquitted by the Criminal Court giving him the benefit of doubt, Capt. M. Paul

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(Supra), would not be applicable. It was, furthermore, held as under:

" It is well settled principle that in a judicial review, the administrative Tribunals have no jurisdiction to go into the truth of allegations/charges, except in cases where they are based on no evidence or where they are perverse. We have the power only to examine the procedural correctness of

the decision making process. The Tribunal cannot embark upon appreciation of evidence to substitute its own findings of fact in place of these disciplinary/appellate authority. On this aspect of the matter, we are relying on a period of decisions in the case of B.C.Chaturvedi Vs. Union of India, 1995 (8) JT 65, State of Tamilnadu Vs.T.V. Venugopalan, 1994 (6) SCC 302, Union of India Vs. Upendra Singh 1994(3) SCC 357, Government of Tamilnadu Vs. A Rajapanndian, 1995 (1) SCC 216, Tamilnadu & Anr.Vs.S. Subhramaniam,AIR 1996 SC 1232,Director general of Police & Ors. Vs. Jani Basha 1999 AIR SCW 4002 and Syed Rahimuddin Vs. Director General,CSIR & Ors. 2001 AIR SCW 2388. In the instant case, we also find that the procedure as laid down by law, has been followed by the respondents department, applicant was given due opportunity to defend himself, was also afforded an opportunity of personal bearing etc. The punishment awarded to him is also not such, as could be terms as disproportionate to the charge proved against him. We are, therefore, not inclined to interfere in the matter. Since a penalty has been imposed on the applicant, his suspension period has also rightly been treated as non-duty."

Learned counsel appearing on behalf of the appellant would submit that the Tribunal and consequently the High Court committed a serious error of law in passing the impugned judgment as they failed to take into consideration the fact that the appellant having been exonerated in regard to charge Nos. 1 to 3, charge No. 2 being intrinsically connected therewith, could not stand alone and, thus, no finding of misconduct was possible to be arrived at in relation thereof. It was, furthermore, submitted that the criminal Court had considered the merit of the matter and keeping in view the fact that all the documents as also the

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oral evidences which were produced by the respondents both in the departmental proceedings as also the criminal case were the same, the impugned judgment is not sustainable. Strong reliance has been placed by the learned counsel on a decision of this Court in G.M.Tank Vs.State of Gujarat & Anr. - 2006(1) SCC 36.

Learned counsel appearing on behalf of the respondents, on the other hand, supported the impugned judgment.

We have noticed hereinbefore the charges levelled against the appellant. The first charge relates to his participation in the conduct of a survey in an unauthorized manner. The third charge was in respect of issuance of Provisional Identity Cards meant for the bonafide residents of the Sanjay Labour Colony by forging signatures of Naib Tehsildar(Colonies) Shri K.S. Gill.

In the departmental proceedings, as indicated hereinbefore, the appellant

had been exonerated from the said charges which would mean that the conduct of survey by the appellant was found to be authorised and it had not been found that he had forged the signatures of Shri K.S.Gill.

Exoneration of the appellant in respect of the said two charges, in our opinion, would not lead to the conclusion that incorrect reports made by him in relation to 21 cases reporting them as residents of the said Sanjay Labour Colony, had any direct or indirect nexus with the charge Nos 1 and 3. Charge No.2, in our opinion, is absolutely distinct and separate. On the basis of the said charge alone the appellant could have been proceeded against in the departmental proceedings.

We, therefore, are unable to agree with the submissions made by the learned counsel in this behalf.

So far as the second contention of the appellant is concerned, there cannot be any doubt, whatsoever, that in the

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event the departmental proceedings and the criminal case are based on identical facts, the judgment of acquittal passed by the criminal court should be taken into consideration by the authority holding the departmental proceedings.

In this case the appellant was given the benefit of doubt. He had not been completely exonerated in the criminal case. Acquittal based on benefit of doubt to an accused, cannot be equated with an acquittal on merit of the matter. Furthermore, it is trite that standard of burden of proof in a criminal case and in the departmental proceedings is absolutely different. Whereas in the former proof, beyond all reasonable doubt is required to be adopted; in the latter preponderance of probability serves the purpose.

The effect of a false report by a government servant is a serious misconduct. The same may not, in a given situation, give rise to a criminal misconduct.

It is well known that the Central Administrative Tribunal in a proceeding questioning the validity and/or the legality of the departmental proceedings exercises a limited jurisdiction. Its jurisdiction to interfere with either in the departmental proceedings or on the quantum of punishment imposed on the delinquent employee being extremely limited, it cannot be said to have committed any illegality in passing

the impugned judgment. As noticed hereinbefore the principal contention raised by the appellant was based on a decision of this Court in Capt. M. Paul Anthony (Supra).

In G.M.Tank(supra) itself this Court noticed the distinction between a departmental proceedings and a criminal case inter alia in view of the standard of proof. However, having regard to the fact situation prevailing therein, namely, the case related to a charge under the Prevention of Corruption Act, both departmental proceedings and the criminal case, were held to be based on absolutely identical facts.

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We may notice that this Court in several decisions had laid emphasis on the aforementioned distinction, namely, standard of proof.

In Commissioner of Police, New Delhi Vs. Narender Singh - (2006) 4 SCC 265 this Court held as under:

"13. It is now well settled by reason of a catena of decisions of this Court that if an employee has been acquitted of a criminal charge, the same by itself would not be a ground not to initiate a departmental proceeding against him or to drop the same in the event an order of acquittal is passed."

For the reasons aforementioned, we do not find any infirmity in the impugned judgment.

The appeal is dismissed. There shall, however, be no order as to costs.

[S.B. SINHA]

.....J.

[CYRIAC JOSEPH]

.....J.

New Delhi,
July 16, 2008.

