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SUPREME COURT ON REINSTATEMENT IN A CASE OF ACQUITTAL

A. Introduction:

Supreme Court (“**SC**”) on 2nd September 2022 in the *Phool Singh* case,¹ held that merely because a person has been acquitted in a criminal trial, he cannot *ipso facto* be reinstated in service.

B. Brief Facts:

1. Phool Singh (“**Singh**”) was a constable in the Rajasthan Police Service.
2. Departmental proceedings (“**DP**”) were initiated against him alleging the following:
 - a. consumption of alcohol and snatching of gun;
 - b. firing at public under the influence of alcohol; and
 - c. demand for documents without authority and bribe of Rs. 100.
3. All the charges were proved against Singh in the DP, and he was dismissed from service, *vide* order of 1989. The appellate and review authority also dismissed the appeal and review.
4. Singh was also facing a criminal trial and was convicted by the Trial Court. However, the Sessions Court set aside his conviction.
5. Based on the acquittal, Singh applied for reinstatement. However, since he did not receive a favourable response from the government, he approached the Rajasthan High Court (“**HC**”).
6. The HC ordered reinstatement with 50% back wages solely on the ground that he had been acquitted and found no faults with the DP.
7. Aggrieved by the order of the HC, the government approached the SC. It contended that Singh was a member of a disciplined force; the charges against him in the DP were serious; and it was concluded in a fair and just manner that he had committed acts of gross indiscipline and negligence.

C. Judgment & Reasoning of SC:

1. The main question was to see whether Singh could be reinstated as he has been acquitted on the same set of charges.
2. SC commented that there should not be ambiguity in law with respect to the above question. It pointed out the differences between a DP and a criminal proceeding with respect to nature of evidence and level of scrutiny. It observed: “*The fundamental difference between the two is that*

¹*The State of Rajasthan & Ors. v. Phool Singh*, Civil Appeal No. 5930 of 2022 (Arising out of SLP (C) No. 1119 of 2021).
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whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of 'preponderance of probabilities', in a criminal court the prosecution has to prove its case 'beyond reasonable doubt.'"²

3. It relied on the *Paul Anthony* case of 1999³ and a plethora of other cases⁴ and held that, "...[T]he two proceedings, i.e., criminal and departmental, are entirely different and merely because one has been acquitted in a criminal trial that itself will not result in the reinstatement in service when one has been found guilty in a departmental proceeding."⁵

D. Conclusion:

The SC allowed the appeal, set aside the order of the HC, and reiterated the following:

1. *"It is the Disciplinary Authority which is best equipped to reach a finding whether a "misconduct" has been committed. The prime concern of a Judge should be whether such a finding has been arrived after following a fair procedure, following the principles of natural justice and fairness."*⁶
2. That the acquittal of Singh was not an honourable acquittal, but one given as a benefit of doubt.⁷

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² Paragraph 8 of the Judgement.

³*M. Paul Anthony vs. Bharat Gold Mines Ltd. and Ors.* (30.03.1999 - SC): MANU/SC/0225/1999.

⁴ *Union of India (UOI) and Ors. vs. Sitaram Mishra and Ors.* (11.07.2019 – SC): MANU/SC/0924/2019, and *Ajit Kumar Nag vs. General Manager (P.J.), Indian Oil Corporation Ltd., Haldia and Ors.* (19.09.2005 - SC): MANU/SC/0584/2005.

⁵ Paragraph 11 of the Judgement.

⁶ Paragraph 12 of the Judgement.

⁷ Paragraph 14 of the Judgement.

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