



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 6640/2019

Rohitashva Kumar Daila S/o Shri Chandgiram, Aged About 52 Years, R/o Village & Post Khanpur, Tehsil Buhana, District Jhunjhunu.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Education Department, Govt. Of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education, Rajasthan, Bikaner
3. District Education Officer, (H.Q.) Secondary Education, Jhunjhunu.

----Respondents

For Petitioner(s) : Mr. Mahendra Singh Gurjar
For Respondent(s) : Mr. Devansh Sharma, Dy.G.C.

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

REPORTABLE

23/04/2026

1. On the request and with the consent of the learned counsel appearing on behalf of the parties, the present writ petition is taken up and heard for final disposal at the admission stage.
2. The present writ petition has been filed challenging the impugned suspension order dated 12.02.2019 (Annex.1) and the impugned order of dismissal dated 25.02.2019 (Annex.2), and also consequentially sought directions to reinstate the petitioner to the post which he was occupying prior to his dismissal.
3. The facts disclose that initially, the petitioner was suspended by the order dated 12.02.2019 on coming to know of the conviction of the petitioner by the trial Court where the criminal proceedings were pending against him. Subsequently, vide order



dated 25.02.2019, the petitioner was dismissed from the service on the ground of his conviction in a criminal case by invoking the powers under Rule 19 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1950 (hereinafter referred to as 'the Rules of 1950').

4. It appears that the petitioner preferred an appeal challenging his conviction and sentence in the criminal case. The Appellate Court, vide order dated 28.02.2019, acquitted the petitioner of the criminal charges. Subsequent to the acquittal, the petitioner approached the respondent authorities and requested them to reinstate him in light of the order passed by the Appellate Court acquitting him of the criminal charges.

5. The judgment of the Appellate Court along with the representation was submitted on 07.03.2019, and later another representation was submitted on 12.03.2019. When no action was taken, the present writ petition was filed challenging the impugned suspension and dismissal orders.

6. Learned counsel appearing on behalf of the petitioner submits that the dismissal of the petitioner was on the basis of his conviction in a criminal case, and once the conviction is set aside by the Appellate Court and he is acquitted, the respondent authorities are required to recall or revoke the dismissal order, and the petitioner shall be reinstated. The respondent authorities have no authority to consider whether the acquittal is honourable or on benefit of doubt in order to reinstate the petitioner.

7. It is also his contention that Circular No. F.9(7) Karmik/A-III/75 of the State Government, issued on 24.04.1990, clearly requires the respondent authorities to consider the judgment of





acquittal and take necessary steps to revoke the order of dismissal or removal. The respondent authorities kept quiet without taking any action thereon; therefore, the present writ petition has been filed.

8. Learned counsel appearing on behalf of the respondents submits that the petitioner was terminated on the basis of conviction in a criminal case by invoking the powers under Rule 19 of the Rules of 1950, and he was subsequently acquitted. The respondent authorities are entitled to examine the judgment of acquittal to determine whether the acquittal was honourable or on benefit of doubt. He is entitled to be reinstated only if the judgment of acquittal is honourable; if it is a doubtful acquittal, he is not entitled to reinstatement. The substance of his argument is that acquittal does not result in automatic reinstatement, but the authorities have discretion to examine whether the acquittal is doubtful or honourable.

9. It is also his submission that the order of dismissal cannot be set aside for the reason that the impugned orders do not suffer from any illegality as when the orders were passed, the circumstance of acquittal did not exist and the conviction was the only criterion for deciding the dismissal; therefore, the orders cannot be set aside. At most, the petitioner is entitled to reconsideration of the order of dismissal based on the judgment of acquittal passed by the Revisional Court or Appellate Court.

10. To answer the rival contentions, this Court is required to examine whether the reinstatement of the petitioner, who was dismissed or removed from service on the basis of conviction in a criminal case by invoking the powers under Rule 19 of the Rules of





1950, is automatic upon acquittal by higher forums or whether the employer has any discretion to examine the merits of the acquittal for the purpose of reinstatement based on such acquittal. In this regard, it is relevant to refer to Rule 19 of the Rules of 1950, which reads as under:

"19. Special procedure in certain cases.–

Notwithstanding anything contained in rules 16, 17 and 18,

(i) where a penalty is imposed on a Government Servant on the ground of conduct which has led to him conviction on a criminal charge; or

(ii) where the Disciplinary Authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to follow the procedure prescribed in the said rules; or

(iii) Where the Governor is satisfied that in the interest of the security of the State, it is not expedient to follow such procedure, the disciplinary Authority may consider the circumstances of the case and pass such orders as it deems fit.

Provided that the Commission shall be consulted before passing such orders in any case in which such consultation is necessary."

11. A reading of the relevant provisions makes it clear that the employer has the authority to impose penalties which are allowable under Rules 16, 17, and 18 of the Rules of 1950 upon conviction on criminal charges by the competent Criminal Court.

12. It is not in dispute in the present case that when the order of **dismissal** was passed, the conviction and sentence imposed by the Criminal Court was in operation, and consequently, Rule 19 of the Rules of 1950 could be validly invoked to pass any order of punishment, including dismissal. When this Court tests the order of dismissal in the context of the facts existing on the date of





passing the dismissal order, this Court finds that there is no illegality in the order of dismissal. In order to test the validity or invalidity of the dismissal order, any subsequent event is immaterial, and the facts and material that existed at the time of the dismissal order are the only relevant factors; therefore, the order of dismissal cannot be found fault based on subsequent events.

13. The further question is, when the order of conviction is set aside in appeal or revision, whether the respondent authorities are required to consider the said judgment and pass necessary orders as permitted under Rule 19 of the Rules of 1950 and the circular issued by the State Government.

14. In the present case, the petitioner has already approached the respondent authorities through representations along with the judgment of acquittal, and no orders have been passed, which has resulted in the petitioner approaching this Court.

15. The pleadings of the respondents show that the petitioner is not entitled to automatic reinstatement, but that his reinstatement is subject to examination of the judgment of acquittal by the employer to determine whether the acquittal was honourable or doubtful. These pleadings are clearly indicative of the decision likely to be taken by the respondent authorities in the event that the representations of the petitioner are directed to be considered. Therefore, this Court is required to examine whether the respondent authorities have the authority to assess the judgment of acquittal for the purpose of reinstatement of the petitioner, or whether reinstatement is automatic consequent upon acquittal on criminal charges.





16. The parties have relied upon various judgments in support of their respective contentions.

17. Learned counsel appearing on behalf of the petitioner relied upon the following judgments:-

- i. **Civil Appeal No.4538/1999 : Bahadur S. Solanki Vs. LIC of India and Anr.** decided on 27.03.2001
- ii. **S.B. Civil Writ Petition No.9504/2015 : Idan @ Idan Ram Vs. State of Rajasthan & Ors.** decided on 30.03.2016
- iii. **S.B. Civil Writ Petition No.3216/2008 : Chandgi Ram Vs. State of Rajasthan** decided on 13.02.2014
- iv. **S.B. Civil Writ Petition No.236/2007 : Beerbal Khan Vs. State of Rajasthan & Ors.** decided on 10.05.2007,
- v. **S.B. Civil Writ Petition No.13413/2023 : Sohanlal Nagar Head Master Vs. The State of Rajasthan & Ors.** decided on 06.04.2026
- vi. **D.B. Civil Special Appeal (Writ) No.353/2019 in S.B. Civil Writ Petition No.6688/2012 : State of Rajasthan Vs. Bheem Singh** decided on 07.08.2019
- vii. **S.B. Civil First Appeal No.392/2018 : Sahiram Vs. Jaisukh Ram** decided on 04.12.2019
- viii. **S.B. Civil Writ Petition No.543/1981 : Hanuman Singh Vs. State of Rajasthan & Anr.** decided on 28.05.1991
- ix. **S.B. Civil Writ Petition No.7/1991** along with batch of writ petitions : **Dr. Kailash Chandra Kotia Vs. Rajasthan State Industrial Development &**





Investment Corporation Ltd., Jaipur decided on
06.12.1991

- x. **S.B. Civil Writ Petition No.4402/1989 : Satya Dev Sharma Vs. State of Rajasthan & Ors.** decided on
03.01.1994
- xi. **D.B. Criminal Jail Appeals No.339/1985 & 359/1985 : Meh Ram Vs. State** decided on
14.01.1994
- xii. **S.B. Civil Writ Petition No.877/1979 : Purshottam Singh Vs. The Union of India** decided on 24.01.1980
- xiii. **F.B. Civil Writ Petition No.321/1967 : Rajvi Amar Singh Vs. The State of Rajasthan** decided on
28.03.1979
- xiv. **S.B. Civil Writ Petition No.1164/1982 : Dr. Trilochan Singh Vs. The State of Rajasthan** decided
on 27.09.1982
- xv. **S.B. Criminal Appeal No.79/1982 : Maghar Singh Vs. The State of Rajasthan** decided on 01.10.1982
- xvi. **S.B. Civil Writ Petition No.1710/1986 : Bijendra Singh Vs. Administrator, Sikar Kendriya Bank Ltd.**
decided on 14.10.1986
- xvii. **S.B. Civil Writ Petition No.4229/2012 : Rai Sahab Vs. State of Rajasthan & Anr.** decided on 27.04.2013
- xviii. **D.B. Criminal Appeal No.117/2010 : Phoosa Ram & Anr. Vs. State of Rajasthan** decided on 20.03.2013
- xix. **S.B. Civil Writ Petition No.699/1984 : Narain Lal Vs. The State of Rajasthan** decided on 05.09.1991





xx. **S.B. Civil Writ Petition No.600/1991 : S.L. Pandya**

Vs. State Bank of India & Anr. decided on 05.07.1991

xxi. **Civil Appeal No.480(N)/1973 : Shankar Dass Vs.**

Union of India & Anr. reported in **(1985) 2 SCC 358**

18. While defending the same, learned counsel appearing on behalf of the respondents relied upon **SLP (C) No.678/2021 : Imtiyaz Ahmad Malla Vs. State of Jammu & Kashmir & Ors.** reported in **2023 SCC OnLine SC 205.**

19. It is suffice to refer to the decision of the Hon'ble Supreme Court in **Civil Appeal No.8513/2012 : Deputy Inspector General of Police and Anr. Vs. S. Samuthiram** reported in **2012 SCC OnLine SC 980**, instead of discussing all the decision relied by the counsels appearing for parties. In the above decision, the Hon'ble Supreme Court had an occasion to deal with the instances when the honourable or doubtful acquittals are relevant for the consideration of reinstatement.

20. The question in the present case is that in what situation the relevance of honourable or doubtful acquittal is to be seen. There may be instances of drawing parallel proceedings where the allegations are common in both departmental and criminal proceedings. Apart from that the appointing/ disciplinary authority, instead of initiating independent departmental proceedings parallel to criminal proceeding, may also place the employee under suspension and wait for the judgment of the Criminal Court, or may wait for the judgment without suspending the employee or initiating any departmental proceedings.

21. Another instance is the appointing/ disciplinary authority, after judgement of conviction, is also entitled to take action by





imposing any of the penalties permissible under the Rules, depending upon the gravity of the charges leading to conviction in the criminal case. In the present case, the respondent authorities have not chosen to initiate any action to initiate parallel departmental proceedings based on the allegations similar to criminal case or suspended the petitioner pending the criminal case; however, they waited for the judgment of the Criminal Court and, based on that judgment, initially proposed action of dismissal. It is alleged by the respondents' counsel that the judgment of conviction was not intimated to the disciplinary authority, and as a result, the authority remained unaware of the conviction, leading to suspension and later dismissed the petitioner by invoking the powers under Rule 19 of the Rules of 1950.

22. The allegation relating to concealment of conviction may constitute misconduct enabling the disciplinary authority to initiate separate disciplinary proceedings. Admittedly, in the present case, no such proceedings have been initiated; therefore, the plea of suppression raised by the respondents has no relevance for arriving at a just conclusion.

23. The Hon'ble Supreme Court had an occasion to consider the relevance of honourable and doubtful acquittals. The instances where such judgments become relevant are that when departmental and criminal proceedings are initiated simultaneously, and while the departmental proceedings are pending an acquittal is recorded in the criminal case, the disciplinary authority conducting the departmental proceedings is entitled to examine whether the acquittal is honourable or doubtful. If it is an honourable acquittal, the authority may





exonerate the employee without proceeding further. There may also be instances where both proceedings run parallelly and the departmental proceedings resulted in dismissal or removal; thereafter, if an acquittal is recorded on appeal/revision, the authorities are required to reinstate on removal of disqualification.

One more instance is if the relevant Rule provides for reinstatement, upon acquittal finalization of departmental proceedings, the disciplinary authority may examine whether the acquittal is honourable or doubtful. Such distinction is also relevant if there is acquittal in criminal case before finality is attained in respect of departmental proceeding. In the present case, there is no such Rule providing for reinstatement based on acquittal in a criminal case.

24. Coming to Rule 19 of the Rules of 1950, it is the provision under which the order of dismissal was passed in the present case on account of conviction in a criminal case. The action under Rule 19 is not based on any independent assessment of evidence, but solely on the fact of conviction, which enables the disciplinary authority to impose a penalty as permissible under the Rules. The power to dismiss or impose a penalty under Rule 19 is based only on the disqualification arising out of conviction. If such disqualification is subsequently removed, the authorities are required to re-examine their decision to reinstate the petitioner into service. At that situation, the respondent authorities have no authority to examine whether the acquittal is honourable or doubtful, as the exercise of power under Rule 19 is based on the disqualification arising from conviction. Once the conviction is set aside by acquittal, they have to examine only whether the





disqualification survives or not. Such examination of honourable acquittal is relevant only in cases involving parallel proceedings, which is not the case here. Therefore, the plea of the respondents that they are entitled to assess the judgment of acquittal to determine whether it is honourable or doubtful for the purpose of reinstatement is liable to be rejected.

25. The respondent authorities are required to reconsider the case of the petitioner for reinstatement and the benefits to which he may be entitled shall be granted, keeping in view Rule 54 of the Rules of 1950.

26. In the result, the writ petition is **partly allowed** as follows:

- i. The impugned order of suspension dated 12.02.2019 (Annex.1) and the impugned order of dismissal dated 25.02.2019 (Annex.2) do not suffer from any illegality.
- ii. The respondents are directed to take decision to reinstate the petitioner disposing of his representations submitted by along with the judgment of acquittal by revoking order of dismissal without considering whether the acquittal is honourable or doubtful.
- iii. The respondent authorities are further directed to take necessary decisions regarding continuity of service and emoluments, if any, strictly in accordance with Rule 54 of the Rules of 1950 and other applicable circulars.

27. The entire exercise shall be done within a period of one month from the date of receipt of a certified copy of this order.

28. All pending application(s), if any, shall also stand disposed of.

(MUNNURI LAXMAN),J

124s-PoonamS/-