

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S). No. 1725 of 2021**

 Anil Kumar Singh, aged about 64 years, son of Baleshwar Singh,
 resident of Shreya Enclave, P.O. Bariatu, P.O. Bariatu, Dist. Ranchi,
 Jharkhand **Petitioner**

Versus

1. State of Jharkhand through Principal Secretary, Home Department, Government of Jharkhand, Jharkhand Mantralaya, P.O. & P.S. Dhurwa, Dist. Ranchi, Jharkhand.
2. The Director General-cum-Inspector General of Police, Jharkhand, Ranchi, Police Head Quarter, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand.
3. The Inspector General of Police, South Chhotanagpur Division, Jharkhand, Ranchi, Police Headquarters, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand.
4. The Deputy Inspector General of Police, South Chhotanagpur Division, Jharkhand, Ranchi, Police Headquarters, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand.

..... **Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

 For the Petitioner : Mr. Dilip Kr. Prasad, Advocate
 For the Resp.-State : Mr. Divyam, AC to SC-IV

08/09.04.2026 Heard the parties.

2. In the instant writ application, the Petitioner has prayed for the following reliefs:-

a) For issuance of an appropriate writ (s)/ order(s)/ direction(s) in the nature of 'Certiorari' for quashing the order dated 15.01.2021, bearing D.O. No. 303/2021 and Memo No. 03/D (Annexure 13) passed by the Director General of General-cum-Inspector Police, Jharkhand, Ranchi (Resp No.2) by which the dismissal order inflicted upon the petitioner has again been affirmed, without considering the fact that the dismissal order passed earlier was quashed by this Hon'ble Court and the matter was remitted back to consider the case of the petitioner afresh;

b) For issuance of a writ (s)/order(s)/ direction(s) in the nature of 'Mandamus' commanding upon the Respondents to forthwith fix and pay the pension and pay the other retiral benefits i.e. the provident fund, gratuity, leave encashment etc. with all consequential benefits along with statutory as well as penal interest;

3. The brief facts of the case are that the petitioner was appointed as a Sub-Inspector of Police on 15.06.1984. While being posted at

Ranchi in the year 2006, an incident occurred and on 19.04.2006, an F.I.R. being Bariatu P.S. Case No. 59 of 2006 was registered under Section 302 of the IPC and Section 27 of the Arms Act, alleging that the petitioner had committed the murder of his wife by using his service revolver at his house. Consequent thereto, the petitioner was taken into custody and was placed under suspension on 29.04.2006.

4. During the pendency of the criminal case, a charge memo (Annexure-1) was issued initiating departmental proceeding. The petitioner, while being in jail, submitted a show cause on 01.09.2006 requesting that the departmental proceeding be kept in abeyance till decision in the criminal case, as the charges in both proceedings were identical.
5. Subsequently, by judgment dated 11.05.2007, the petitioner was convicted under Section 302 of IPC; however, he was acquitted of the charge under Section 27 of the Arms Act, thereby negating the allegation of use of service revolver in the commission of the offence. Being aggrieved of the conviction order, the petitioner preferred Criminal Appeal being Cr. Appeal D.B. No. 586 of 2007 before this Court.
6. During pendency of the said appeal, the petitioner again submitted representation dated 22.06.2007 through jail authorities to the Senior Superintendent of Police and a copy thereof to the Inquiry officer by which petitioner requested that the departmental proceeding be kept in abeyance till disposal of the criminal appeal. In the meantime, a final show cause notice dated 17.03.2010 was issued through the Jail Superintendent, Ranchi, who informed that the petitioner had been admitted to RINPAS. Owing to his disturbed mental condition, the petitioner could not show cause to the said notice.
7. On the basis of the enquiry report, the Senior Superintendent of Police, Ranchi, vide Memo No. 2457/Ra.Ka. dated 17.05.2010,

held the petitioner guilty of the alleged charges and recommended for dismissal from service. However, in this letter the Senior Superintendent of Police, Ranchi, has also admitted the fact that the entire departmental proceeding was conducted ex-parte, as the petitioner was languishing in jail.

8. Thereafter, vide order dated 25.10.2011 (Annexure-6), the petitioner was dismissed from service. The appeal preferred by the petitioner was rejected on 19.01.2012 (Annexure-7). Meanwhile, the criminal appeal preferred by the petitioner was allowed by the Division Bench of this Court vide judgment dated 07.06.2017 (Annexure-8), whereby the petitioner was acquitted of the charges under Section 302 IPC.
9. Consequent upon acquittal, the petitioner preferred a Memorial/Revision on 13.07.2017 (Annexure-9) seeking reinstatement and consequential benefits. The petitioner, in the meantime, attained the age of superannuation on 31.08.2017. However, the revision petition came to be rejected on 16.10.2017 (Annexure-10).
10. Aggrieved of this, the petitioner approached this Court by filing W.P.(S) No. 6342 of 2017, which was allowed vide order dated 10.09.2020, whereby the matter was remitted to the authorities for fresh consideration. Pursuant thereto, the petitioner submitted a representation dated 29.09.2020 claiming payment of all consequential service benefits. Thereafter, the Respondent No. 2, ignoring the observations of this Court in order dated 10.09.2020 and that the earlier dismissal order was quashed, rejected the appeal/revision preferred by the petitioner and the dismissal order was again affirmed vide order dated 15.01.2021. Hence, this writ application
11. Learned counsel for the petitioner submits that the charge against this petitioner was same and similar in the criminal case in which the petitioner has been acquitted by the Division Bench of

this Court in Criminal Appeal (D.B) No. 586 of 2007 and this aspect of the matter has not been considered by either of the authorities.

12. He further submits that it is not only a case of procedural irregularities; rather it is a case of non-appreciation of evidence as well as the settled law that when the delinquent employee is charged in both disciplinary proceeding and criminal case and if he is acquitted in criminal case then certainly the Disciplinary Authority should not brushed aside the order passed in criminal case and pass an order judiciously. In support of her contention, learned counsel for the petitioner relied upon the judgment passed in the case of *G.M. Tank Vs. State of Gujarat and others reported in (2006) 5 SCC 446*. Ld. Counsel further relied upon the judgment in the case of *Ram Lal vs State of Rajasthan and others reported in (2024) 1 SCC 175*.
13. Learned counsel contended that the Respondent No. 2 without considering the fact that the dismissal order passed earlier was quashed by this Court and the matter was remitted back to consider afresh; however the authority after remand has failed to assign reasoning distinct from that of the order passed earlier by the department as such impugned order may be set aside and the consequential benefit may be extended to the petitioner.
14. Learned counsel for the respondent-State submits that there is no procedural irregularity in the impugned order and the petitioner has been given fair opportunity to defend himself. He further submits that acquittal in the criminal case when the witnesses have been declared hostile; cannot be said that the petitioner was honourably acquitted. He further submits that it is true that the charges in the departmental proceeding and the criminal case are one and the same and in the criminal case he has been acquitted but only for the sole reason that witnesses were declared hostile.

15. He further submits in the departmental proceeding the proof evidence is based on preponderance of probability; wherein the evidence is not required to be proved strictly and the charges are not required to be proved beyond reasonable doubt and therefore, there is no illegality in the order passed by the department as it has been passed after following due procedure.
16. Having heard learned counsel for the parties and after going through the documents available on record and the averments made in the respective affidavits, it appears that an F.I.R. being Bariatu P.S. Case No. 59 of 2006 was registered under Section 302 of the IPC and Section 27 of the Arms Act, alleging that the petitioner had committed the murder of his wife by using his service revolver at his house. Consequent thereto, the petitioner was taken into custody and was placed under suspension on 29.04.2006. On the basis of the enquiry report, the Senior Superintendent of Police, Ranchi, vide Memo No. 2457/Ra.Ka. dated 17.05.2010, held the petitioner guilty of the alleged charges and recommended for dismissal from service. Thereafter, vide order dated 25.10.2011, the petitioner was dismissed from service. The appeal preferred by the petitioner was also rejected on 19.01.2012.
17. Thereafter, the criminal appeal preferred by the petitioner was allowed by the Division Bench of this Court in Criminal Appeal (D.B) No. 586 of 2007 vide judgment dated 07.06.2017 (Annexure-8), whereby the petitioner was acquitted of the charges under Section 302 IPC. Consequent upon acquittal, the petitioner preferred a Memorial/Revision on 13.07.2017 seeking reinstatement and consequential benefits. The petitioner, in the meantime, attained the age of superannuation on 31.08.2017. However, the revision petition came to be rejected on 16.10.2017. Consequently, the petitioner approached this Court by filing W.P.(S) No. 6342 of 2017, which was allowed vide order dated

10.09.2020; whereby the matter was remitted for fresh consideration. Pursuant thereto, the petitioner submitted a representation dated 29.09.2020 claiming payment of all consequential service benefits which was also rejected vide order dated 15.01.2021.

18. It transpires that the charges against the petitioner were to murder his wife with his service revolver; however, in the criminal case, which was for the same offence, no evidence to that effect came before the Criminal Court. Accordingly, the Trial Court acquitted him from the Arms Act; however, the petitioner had been convicted under Section 302 I.P.C which was subsequently set aside by the Division Bench of this Court and the petitioner was acquitted for the said charge.

19. The Division Bench of this Court in Criminal Appeal (D.B) No. 586 of 2007 held that the chain of circumstances is not complete in this case. Thus, it can safely be concluded that the prosecution has failed to prove the appellant guilt beyond reasonable doubt. For better appreciation relevant paragraph rendered by this Court are quoted herein below:

“15. The Court below has held in the judgment that it is not in dispute that the accused who is a police officer was provided with the pistol bearing No. 15334377 by his department. After scrutinizing the evidence, this Court finds that neither there is admission on the part of this appellant nor any evidence of any of the witnesses that this pistol was given to this appellant. In absence of any such admission it was the duty of the prosecution to prove by documentary evidence that this pistol was provided to the appellant by the department.

Thus, the finding of the lower Court is absolutely bad. We also find that the chain of circumstances is not complete in this case. Thus, it can safely be concluded that the prosecution has failed to prove the appellant guilt beyond reasonable doubt. On the basis of the hostile evidence who did not supported their earlier statement, this appellant cannot be held guilty.”

(Emphasis supplied)

20. Pursuant to acquittal in criminal Appeal, petitioner preferred revision; however, the same was rejected vide order dated 16.10.2017. Aggrieved by the same the petitioner preferred Writ application before this Court in W.P.(S) No. 6342 of 2017 wherein

this Court after setting aside the revisional order, remand the matter for afresh consideration. The same has been extracted herein below:

“ Having heard learned counsel for the parties, the Court finds that in the departmental proceeding when the inquiry report was submitted, the petitioner was being treated in RINPAS, which is apparent from Annexure-5. In the inquiry report contained in Annexure-6, this aspect of the matter has been accepted that the petitioner was being treated in RINPAS and that is why reply to the show-cause has not been received. Only on the ground of conviction by the trial court, the inquiry report has been submitted saying that the petitioner is found guilty. After acquittal by the High Court in the criminal case, the Director General of Police has rejected the revision application of the petitioner on the ground that the High Court has not directed for reinstatement of the petitioner in service while acquitting the petitioner in the criminal case. It is well known that the High Court while acquitting the petitioner has decided the criminal case only and the authority concerned has to consider the reinstatement of the petitioner in service while passing a reasoned order. From the inquiry report, it transpires that the petitioner was being treated in RINPAS and the inquiry report has been submitted only taking into consideration this aspect of the matter that the petitioner has been convicted by the trial court. The reason assigned by the Director General of Police, Ranchi while rejecting the claim of the petitioner does not sound good.

In view of the above facts, the writ petition succeeds and, accordingly, the impugned order dated 16.10.2017 contained in Annexure-13 passed by the Director General of Police, Ranchi is quashed. The matter is remitted back to the Director General of Police, Ranchi to consider the case of the petitioner afresh and pass a reasoned order.”

- 21.** This Court in remand order has specifically held that only on the ground of conviction by the trial court, the inquiry report has been submitted saying that the petitioner is found guilty. The Court further held that the reason assigned by the Director General of Police, Ranchi while rejecting the claim of the petitioner does not sound good and remanded the matter to Director General of Police, Ranchi to reconsider the case of the petitioner afresh and pass a reasoned order; however, the revisional authority without considering the fact that this Court has set aside the revisional order on the ground that Inquiry report is based upon conviction of trial Court; however, revisional authority in its afresh order has nowhere stated by which witnesses or evidences it has proved the charges and taken the same ground which was taken earlier which shows that the Revisional authority has not applied its mind.

22. Moreover, so far as the witnesses, who appeared in the departmental proceeding is concerned , no one has categorically stated that the petitioner has used the service revolver in killing his wife. In other words, both were hearsay witnesses.

23. So far as Contention of the respondents with regard to technical acquittal of the petitioner is concerned; the same has been dealt by the Hon'ble Supreme Court, in ***Ram Lal v. State of Rajasthan reported in (2024) 1 SCC 175***, wherein it has been held that Expressions like “benefit of doubt” and “honourably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In paragraph 28 of the said judgment, it has been held as under:

“28. Expressions like “benefit of doubt” and “honourably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.”

24. In the instant case, for the same charges, the departmental proceeding as well as criminal proceeding were initiated against the Petitioner and in the criminal appeal, he had been acquitted and it has been held that the conviction by the trial Court is bad in law; as such, the same would have direct bearing on the instant case.

25. Accordingly, looking to the overall facts and circumstances of the case, this is a case of no evidence; as such, impugned order dated 15.01.2021 whereby Revisional authority has affirm the Order of dismissal is quashed and set aside. Consequently, the order of punishment of dismissal and the appellate order sustaining the order of dismissal is also quashed and set-aside.

- 26.** The concerned Respondent is directed to forthwith fix and pay the pension and pay the other retiral benefits i.e. the provident fund, gratuity, leave encashment etc. within period of 10 weeks from the date of receipt/production of copy of this Order. However, the petitioner is not entitled for any back wages, but his service will be counted as regular, for other consequential benefits.
- 27.** In view of the aforesaid finding the instant Writ application stands allowed. Pending I.A., is also closed. No cost.

(Deepak Roshan, J.)

9th April, 2026

Kunal/-

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