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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
PRASHANT KUMAR MISHRA; J., N.V. ANJARIA; J.
JANUARY 12, 2026

THE SUPERINTENDING ENGINEER *versus* THE LABOUR COURT MADURAI & ORS.

Probation of Offenders Act, 1958 – Section 12 – Effect of Probation on Conviction and Departmental Action – The Supreme Court reiterated that the release of an offender on probation does not obliterate the stigma of conviction - The conviction of the accused or the finding of the court that he is guilty remains untouched, as it is the sine qua non for an order of release on probation – Held that in a case where a workman obtained employment as a Helper by using his brother's educational certificates and impersonating him, Supreme Court held that such misconduct justifies departmental action - that Section 12 of the Probation of Offenders Act does not preclude a department from taking action for misconduct leading to an offence or conviction – Noted that Section 12 only removes "disqualifications" provided by other laws (e.g., for holding office or seeking elections) but does not sweep away the factum of guilt or the misconduct resulting in conviction - a person dismissed from service due to conviction is not entitled to reinstatement merely because they were granted the benefit of probation - While the Supreme Court set aside the High Court's observation that conviction alone is not a ground for removal, it declined to interfere with the modified punishment of "compulsory retirement" in this specific instance, noting that the respondent-workman had since passed away and the appellant did not wish to unsettle benefits accrued to the family. [Relied on *Union of India Vs. Bakshi Ram* (1990) 2 SCC 426; Paras 9-13]

[Arising out of impugned final judgment and order dated 31-07-2024 in WAMD No. 251/2018 passed by the High Court of Judicature at Madras at Madurai]

For Petitioner(s) Mr. Balaji Subramanian, A.A.G. Mr. Sabarish Subramanian, AOR

ORDER

1. Heard learned counsel for the appellant.
2. None present for the respondents despite service of notice.
3. Leave granted.
4. The appellant has preferred this appeal challenging the order passed by the High Court dismissing the writ appeal affirming the order passed by Learned Single Judge, who in turn, has affirmed the Award passed in favour of respondent-workman (now deceased, represented by his Legal Heirs) in I.D. No. 132/2005 by the Labour Court, Madurai dated 11.05.2009 and confirmed the order modifying the order of dismissal into increment cut for three years.
5. The workman was engaged as a contract labour and subsequently, as per the scheme prepared by the appellant-Electricity Board, he was absorbed as a Helper on 06.04.1998. Upon revelation that his educational certificate was bogus and the original name of the workman is 'Thiru. P. Palaniappan' and he has impersonated his brother 'Thiru. P. Thangaiyan' and by using his brother's educational certificate, he has obtained employment, an enquiry was conducted against him. After conclusion of the domestic inquiry, he was dismissed from service as per order dated 31.01.2005. However, the Labour Court *vide* its order dated 11.05.2009, substituted the punishment of dismissal

from service to the one of reduction of pay and increment cut for a period of three years which will operate for future increments.

6. In the writ petition preferred by the appellant, the learned Single Judge confirmed the Award passed by the Labour Court and in Writ Appeal, the Division Bench of the High Court modified the order of punishment from one into increment cut for three years to compulsory retirement.

7. The Division Bench, mainly, relied upon the fact that in the Criminal proceedings, the respondent-workman was granted benefit of Probation of Offenders Act, 1958 and thus, he was never sentenced for the guilt of forging the educational qualification certificate.

8. Learned counsel for the appellant would submit that the law is settled in the matter of *Union of India Vs. Bakshi Ram* (1990) 2 SCC 426 that release of an offender on probation does not obliterate the stigma of conviction and as long as the conviction stands, the release of the respondent-workman on probation can never be taken as ground for substituting the punishment of dismissal from service to the one of compulsory retirement. In the same breath, learned counsel would submit that since the respondent-workman has died, the appellant-Board does not wish to unsettle the benefit which has accrued to the family of the deceased workman by virtue of the impugned order but the law interpreted wrongly by the Division Bench of the High Court should be corrected so that it does not operate as a precedent in similar cases arising in future.

9. Having noted the submission made by the learned counsel for the appellant, we are of the considered view that what has been observed by this Court in *Bakshi Ram* (supra) and noted by the High Court itself is that release of offenders on probation does not obliterate the stigma of conviction.

10. To be precise, the following paragraph in *Bakshi Ram*(supra) needs to be noticed:

8. It will be clear from these provisions that the release of the offender on probation does not obliterate the stigma of conviction. Dealing with the scope of Sections 3, 4 and 9 of the Probation of Offenders Act, Fazal Ali, J. in *Divisional Personnel Officer, Southern Railway v. T.R. Chellappan* speaking for the court observed: (SCC p. 198, para 11)

"These provisions would clearly show that an order of release on probation comes into existence only after the accused is found guilty and is convicted of the offence. Thus, the conviction of the accused or the finding of the court that he is guilty cannot be washed out at all because that is the sine qua non for the order of release on probation of the offender. The order of release on probation is merely in substitution of the sentence to be imposed by the court. This has been made permissible by the statute with a humanist point of view in order to reform youthful offenders and to prevent them from becoming hardened criminals. The provisions of Section 9(3) of the Act extracted above would clearly show that the control of the offender is retained by the criminal court and where it is satisfied that the conditions of the bond have been broken by the offender who has been released on probation, the court can sentence the offender for the original offence, This clearly shows that the factum of guilt on the criminal charge is not swept away merely by passing the order releasing the offender on probation. Under Sections 3, 4 or 6 of the Act, the stigma continues and the finding of the mis-conduct resulting in conviction must be treated to be a conclusive proof. In these circumstances, therefore, we are unable to accept the argument of the respondents that the order of the Magistrate releasing the offender on probation obliterates the stigma of conviction."

9. As to the scope of Section 12, learned Judge went on (at 596): (SCC p. 198, para 12)

"It was suggested that Section 12 of the Act completely obliterates the effect of any conviction and wipes out the disqualification attached to a conviction of an offence under such law. This

argument, in our opinion, is based on a gross misreading of the provisions of Section 12 of the Act. The words "attaching to a conviction of an offence under such law" refer to two contingencies: (i) that there must be a disqualification resulting from a conviction; and (ii) that such disqualification must be provided by some law other than the Probation of Offenders Act. The Penal Code does not contain any such disqualification. Therefore, it cannot be said that Section 12 of the Act contemplates an automatic disqualification attaching to a conviction and obliteration of the criminal misconduct of the accused. It is also manifest that disqualification is essentially different in its connotation from the word misconduct".

10. In criminal trial the conviction is one thing and sentence is another. The departmental punishment for misconduct is yet a third one. The court while invoking the provisions of Section 3 or 4 of the Act does not deal with the conviction; it only deals with the sentence which the offender has to undergo. Instead of sentencing the offender, the court releases him on probation of good conduct. The conviction however, remains untouched and the stigma of conviction is not obliterated. In the departmental proceedings the delinquent could be dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge [See Article 311(2)(b) of the Constitution and Tulsiram Patel case²].

11. Section 12 of the Act does not preclude the department from taking action for misconduct leading to the offence or to his conviction thereon as per law. The section was not intended to exonerate the person from departmental punishment. The question of reinstatement into service from which he was removed in view of his conviction does not therefore, arise. That seems obvious from the terminology of Section 12. On this aspect, the High Courts speak with one voice. The Madras High Court in *R. Kumaraswami Aiyar v. Commissioner, Municipal Council, Tiruvannamalai and Embaru, P. v. Chairman, Madras Port Trust* the Andhra Pradesh High Court in *A. Satyanarayana Murthy v. Zonal Manager, LIC*, the Madhya Pradesh High Court in *Prem Kumar v. Union of India*, the Punjab and Haryana High Court in *Om Parkash v. Director Postal Services (Posts and Telegraphs Deptt.) Punjab Circle, Ambala*, the Delhi High Court in *Director Direct of Postal Services v. Daya Nand* have expressed the same view. This view of the High Courts in the aforesaid cases has been approved by this Court in *T.R. Challappan* case.

12. In *Trikha Ram v. V.K. Seth* this Court after referring to Section 12 has altered the punishment of dismissal of the petitioner therein into "removal from service", so that it may help him to secure future employment in other establishment.

13. Section 12 is thus clear and it only directs that the offender "shall not suffer disqualification, if any, attaching to a conviction of an offence under such law". Such law in the context is other law providing for disqualification on account of conviction. For instance, if a law provides for disqualification of a person for being appointed in any office or for seeking election to any authority or body in view of his conviction, that disqualification by virtue of Section 12 stands removed. That in effect is the scope and effect of Section 12 of the Act. But that is not the same thing to state that the person who has been dismissed from service in view of his conviction is entitled to reinstatement upon getting the benefit of probation of good conduct. Apparently, such a view has no support by the terms of Section 12 and the order of the High Court cannot, therefore, be sustained."

11. Having noted the above law laid down by this Court in *Bakshi Ram* (Supra), the High Court has fallen into error by observing that the conviction of the workman herein shall not be a disqualification and this conviction alone is not a ground to remove the workman from service.

12. In our considered view, the observation made by the High Court runs contrary to the law laid down in *Bakshi Ram* (Supra). Therefore, we set aside the observation of the High Court made in favour of the respondent-workman in para 14 of the impugned order and reiterate the law laid down in *Bakshi Ram* (Supra).

13. However, considering the fact that respondent-workman has died, we are not interfering with the modification of the punishment as made by the High Court in the impugned judgment.
14. The Civil Appeal stands disposed of in the above terms.
15. Pending application(s), if any, shall stand disposed of.

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