

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CWP-18630 of 2013

Decided on : 05.11.2015

Sham Lal Gupta

... Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present : Mr.Ravi Kadian, Advocate for
Mr.Sanjeev Peter, Advocate
for the petitioner.
Mr.RKS Brar, Addl.AG, Haryana.
Mr.P.S.Poonia, Advocate
for respondents No.2 to 4.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Harinder Singh Sidhu, J. (Oral)

Replication to the written statement filed on behalf of respondents No.1 to 4, is taken on record. Copy thereof has been supplied to the opposite counsel.

Petitioner while working as Assistant Foreman (AFM) with the respondent-Corporation, was convicted in FIR No.387 dated 31.08.1996 for the offence punishable under Section 323, 325 IPC, vide judgment dated 21.03.2003 of the Magistrate, 1st Class, Rohtak and was sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.500/- on account of conviction under Section 323, IPC; and to further undergo simple imprisonment

for a period of two years and to pay a fine of Rs.1000/- on account of conviction under Section 325 IPC. His appeal against the said order was dismissed by Sessions Judge, Rohtak vide order dated 25.08.2004 and Criminal revision was also dismissed by this Court. But his sentence was reduced to the period already undergone.

After conviction of the petitioner in the aforesaid case, the respondent passed the order dated 10.02.2005 (Annexure P/2), vide which the petitioner was removed from service with immediate effect. The said order was passed solely on the basis of conviction of the petitioner. It was stated that since the petitioner has been convicted for an offence involving moral turpitude, he is not entitled to be retained in service with the respondent-corporation (Uttar Haryana Bijli Vitran Nigam (UHBVN)).

The petitioner has assailed the aforesaid order. He has placed reliance on the State Govt.'s instructions (Annexure P/12) dated 26.03.1975, whereby the earlier instructions issued vide letter dated 2.2.1973 have been modified. Relying upon the aforesaid instructions, learned counsel for the petitioner states that offences under Sections 323 and 325 have not been included in the list of offences involving moral turpitude.

Learned counsel for the petitioner thereby contends that the basis of termination order dated 10.02.2005 that the petitioner has been convicted for an offence involving moral turpitude is wrong and incorrect inasmuch the offences under Sections 323 and 325 IPC cannot be considered as involving moral turpitude. He further

relies on a decision of this Court in LPA No.146 of 2014 titled as Dakshin Haryana Bijli Vitran Nigam Ltd. and others Vs. Desh Raj, where a decision of the learned Single Judge quashing the order of termination which had been issued after the conviction of the employee under Sections 323 and 325 IPC was affirmed.

The case of the petitioner is also similar to the facts and issue involved in the said judgment.

Accordingly, the order dated 10.02.2005(Annexure P/2) is set aside.

It is directed that the petitioner will be entitled to be re-considered for continuation of his service with the respondents with all consequential benefits except wages. As the petitioner was due to retire on 31st July, 2006, the period from the date of his dismissal i.e. 10.02.2005 till his retirement, be counted as service period, for all purposes except wages for this period.

Petition is disposed of in the aforesaid terms.

[Harinder Singh Sidhu]
Judge

05.11.2015
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