

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 23708 of 2015 (O&M)

Date of decision : 20.11.2015

Virpal Singh

.....Petitioner

Versus

Pepsu Road Transport Corporation and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Simranjeet Singh, Advocate
for the petitioner.

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 16.07.2015 (Annexure P-3) passed by respondent No. 2 – General Manager, Pepsu Road Transport Corporation.

Facts of the case are that the petitioner was working as a driver with respondent – department. He was involved in accident caused by the bus driven by him. He was placed under suspension vide order No. 58 dated 24.04.2002. FIR No. 57 dated 23.04.2002 was also registered against him. Charge sheet dated 07.05.2002 was served upon the petitioner with following charges as narrated in the impugned order:-

1. Main Malpractice.

2. On date 23.04.2004, the bus no. PB-AL-8243 was coming from Route No. 597 in Anandpur Sahib near

the city of Phillaur village, the car No. DL-8CF-0695 was coming from front, the bus hit the car with negligence and high speed and the neglected accident happen during 4:30.

3. The three passenger of Car No. DL-8CF-0695 named Mr. Nalesh Kumar, Mrs. Kamlesh Rani and Mrs. Santosh Rani were dead on the spot and the FIR No. 57 dated 23.04.2002 was registered against you and Corporation, case has been registered under Punjab Police authority and the corporation is responsible for intervene in legal work.
4. From date 23.04.2002, till the vehicle was given on Superdaari, there was loss of 3048 kilometres to Corporation and the loss to corporation was for Rs. 39380/-.
5. Due to negligence and high speed the accident occurred on date 23.04.2002 there was loss of Rs. 33161 to corporation on account of car repair.
6. Misconduct in the duty.
7. Guilty of Breaking Rules.

Inquiry officer was appointed vide order dated 21.05.2002. It is apparent that numerous opportunities of personal hearing were afforded to the petitioner but he did not turn up. Thereafter, notice was published in Punjabi Tribune dated 12.01.2003 but still the petitioner chose not to raise any defence or appear before the authorities. His services were, accordingly, terminated vide order dated 29.01.2003. Petitioner was acquitted of the charge against him in the criminal proceedings on 01.02.2005 (Annexure P-1).

Learned counsel for the petitioner vehemently argues that

the petitioner thereafter submitted representation dated 23.04.2011

praying for his reinstatement and setting aside the termination order. On a direction of this Court vide order dated 02.03.2015 in CWP No. 3748 of 2015 (Annexure P-2), impugned order dated 16.07.2015 (Annexure P-3) has been wrongly passed. His representation was rejected without any justification and without considering the fact that he has been acquitted in criminal case. Once acquittal is afforded to the petitioner, the very basis of termination order is demolished. Therefore, petitioner is entitled to reinstatement and setting aside termination of his services.

I have heard learned counsel for the petitioner and find no merit in this writ petition. It is not denied that order of termination was passed on 29.01.2003, no appeal whatsoever was preferred by the petitioner. A fresh cause of action cannot accrue by filing a representation in the year 2011 by the petitioner.

Contention of learned counsel for the petitioner that a fresh cause of action arose to the petitioner on a direction being issued by this Court on 02.03.2015 to challenge his order of termination is clearly misconceived. Direction issued by this Court is to decide his representation in accordance with law. Petitioner is seeking to create a cause of action which does not exist. There is no explanation whatsoever as to why the petitioner never challenged the order of termination since the year 2003.

Even after his acquittal in the year 2005, petitioner maintained a studious silence till March 2011. Furthermore, acquittal in the criminal case by itself is not sufficient for setting aside the termination order. Department was justified in passing the termination

order, which has attained finality never having been challenged by the petitioner till date. It is not denied that the petitioner did not appear before the authorities despite issuance of show cause as well as publication in the newspapers.

Learned counsel for the petitioner relies on judgments of Hon'ble Supreme Court in **Joginder Singh versus Union Territory of Chandigarh and others 2015 (2) SCC 377**, **G.M. Tank versus State of Gujarat and another 2006 SCC (L&S) 1121** and **S. Bhaskar Reddy and another versus Superintendent of Police and another 2015 (2) SCC 365** to submit that once an employee has been honourably acquitted in criminal proceedings, dismissal from service is not sustainable. Said judgments are not relevant in the present case for the simple reason that first of all the petitioner has not challenged his termination order and secondly charge sheet issued to him would reveal allegations of financial loss, which has also been caused to the Corporation on account of his acts. Termination of his service is not on the sole ground of his conviction in the criminal case. Department was justified in terminating his services.

Present writ petition being devoid of merit is dismissed.

November 20, 2015
rts

(Lisa Gill)
Judge