

Sr.No.247

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP-25884-2014(O&M)

Decided on: **05.11.2015**

Om Pal .....Petitioner

vs.

State of Haryana and others .....Respondents

**Coram: Hon'ble Mr. Justice Mahesh Grover**

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

Mr.Ashok S. Chaudhary, Addl. A.G. Haryana.

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**Mahesh Grover, J**

The petitioner impugns the order dated 14.11.2014 by which his services were terminated on the ground that he is unfit to hold a public post keeping in view his conviction of four months under Section 138 of Negotiable Instruments Act.

On a prior occasion, the petitioner approached this Court when he was under suspension for the aforesaid alleged mis conduct and this Court on 26.09.2014 passed order in CWP-20183-2014 directing the respondents to consider the case of the petitioner by giving liberty to the petitioner to make a representation in this regard. After issuance of a show cause notice, the respondents have now passed the impugned order viz the petitioner on the ground that his entire service record has no other blemish except the fact that he was convicted for four months under Section 138 of Negotiable Instruments Act.

The respondents, as a measure of justification reiterate the reason which has been given in the impugned order itself.

On due consideration of the matter, I am of the opinion that the punishment order of termination of services of the petitioner is extremely harsh considering the fact that he is in employment since 31.07.1983, particularly when the imprisonment was not on account of any act related to the service or amounting to moral turpitude. Conviction under Section 138 of Negotiable Instruments Act even though emanating from proceedings which have a criminal colour cannot be termed to be such as the genesis of

the dispute essentially arising from a civil transaction which should not, therefore, ordinarily have any bearing on the service of an employee to warrant such a harsh consequence as termination of his service to wipe out the entire previous service. The service Rules only envisage this extreme course to be adopted by respondents in the event of a person being convicted for an act which has a bearing on the service of the employee or if mis conduct attributed, amounts to moral turpitude. Finding none of these to be present in the instant case, I would have no hesitation to accept the petition.

Resultantly, the petition is allowed and the petitioner would be deemed to be in service with all consequential benefits.

The respondents, indeed, would be at liberty to take a decision with regard to the period of suspension and the emoluments admissible to the petitioner.

**05.11.2015**

**mamta**

**(MAHESH GROVER)**

**JUDGE**