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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1055-2014 [O&M]

Date of Decision : December 3rd, 2015

Risal Singh

.... Appellant

Versus

State of Haryana and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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

Present Mr. Jai Vir Yadav, Advocate,
for the appellant.

Mr. Sandeep Moudgil, Addl. A.G. Haryana,
for the respondents.

SHEKHER DHAWAN, J.

For the reasons mentioned in the application, delay of 24 days in re-filing the present appeal is condoned.

Present intra-court appeal under Clause X of the Letters Patent has been filed by the appellant against the order dated 13.01.2014 passed by learned Single Judge, whereby writ petition filed by the petitioner-appellant was dismissed.

The minimal facts, which need to be mentioned for deciding the present appeal are as under:-

Appellant-Risal Singh, a Fitter, was deputed as a Driver on bus No. HNB-1444 from Devrala to Pipli on 22.6.1991 and while coming back, the said bus caused an accident with TATA-407 bearing registration No. HR-47-0194, which resulted into death of 14 persons on the spot. FIR No. 110 dated 22.06.1991 was registered under Sections 279, 337, 338, 304-A

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and 427 IPC at Police Station Loharu. After trial, appellant Risal Singh was held guilty and he was convicted and sentenced to undergo Rigorous Imprisonment for 1 year and 3 months under Sections 304A and 279 IPC respectively.

On the same allegation and misconduct, the appellant was dismissed from service vide order dated 5.2.2009 [Annexure P/1]. Departmental appeal filed against the said order was also dismissed vide order dated 30.10.2010 [Annexure P/3]. The appellant remained unsuccessful while filing writ petition before this Court and against the order passed by learned Single Judge, he has filed the present Letters Patent Appeal.

Learned counsel for the appellant, inter-alia, submitted that the appellant has already undergone the actual sentence ordered by the Court after trial of criminal case. It was not a case of moral turpitude and dismissal could not be automatic.

Learned counsel for the appellant also submitted that in fact, the employer in this case had given the opportunity to the appellant to drive a bus though, he was not a duly appointed driver. However, for causing the accident, he has already been sentenced as per law and the order regarding dismissal of the appellant from service be set-aside.

Learned State counsel submitted that the appellant had caused the accident which resulted into death of 14 innocent persons. More so, he has not disclosed these facts regarding his arrest and concealed the facts from the office and he was rightly dismissed by the competent authority. The writ petition has rightly been dismissed by learned Single Judge. So, the present appeal against the order passed by learned Single Judge be

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also dismissed.

We have duly considered the submissions made by learned counsel for both the parties. The facts are not disputed to the extent that the appellant while driving bus No.HNB-1444 caused the accident which resulted into death of 14 innocent persons. For that act of rash and negligent driving, he was sentenced to undergo rigorous imprisonment for one year and 3 months under Sections 304-A and 279 IPC respectively, which he has already undergone. On the same allegation, he had been dismissed from service vide order dated 5.2.2009 [Annexure P/1]. Appeal against the said order has also been dismissed. However, this Court cannot ignore the fact that the appellant was not a duly appointed driver. The lapse was also on the part of the employer to allow appellant-Risal Singh to drive the bus carrying number of passengers, though he was not a regular driver. So, on the point of punishment awarded to the appellant by way of dismissal from service, certainly a little lenient view can be taken as he had already put in 33 years of service.

Thus, keeping in view the length of service and the above fact, the present appeal is partly accepted with the modification that the punishment awarded to the appellant is converted from “dismissal” to “compulsory retirement”.

Disposed of accordingly.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

December 3rd, 2015
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