

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.11717 of 2013 (O&M)

Date of Decision: 17.03.2016

Bharat Sanchar Nigam Ltd. & Ors.

... Petitioners

VS.

CAT & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Ms. Deepali Puri, Advocate for the petitioners

Mr. AK Khunger, Advocate for respondent No.2

SURYA KANT, J. (Oral)

(1) Bharat Sanchar Nigam Ltd. and its authorities have laid challenge to the order dated 01.10.2016 (P1) passed by the Central Administrative Tribunal, Chandigarh Bench (in short, 'the Tribunal') whereby the Original Application filed by the second respondent was allowed to the extent the order removing him from service was set aside and he has been ordered to be reinstated in service along with permissible service benefits to be granted in accordance with the Service Rules.

(2) A brief reference to the facts may be made. Respondent No.2 joined the Department of Telecom and was later on absorbed in the petitioner-Corporation. A criminal case under Section 148, 323, 324, 325, 452 read with Section 149 IPC was registered vide FIR No.76 dated 13.09.2000 at Police Station Kotkapura. The second respondent was found guilty and was convicted by the Judicial

Magistrate under Section 323 & 324 IPC read with Section 149 IPC but was released on probation for a period of two years. The complainant in the case, however, filed a revision petition which was allowed by the Additional Sessions Judge, Faridkot vide judgement dated 01.08.2007 and the second respondent was sentenced to rigorous imprisonment for two years for offences under Sections 452/325/149 IPC and six months rigorous imprisonment under Section 325/149 and 323/149 IPC.

(3) The second respondent challenged the order of Additional Sessions Judge before this Court in CRR No.1298 of 2007 in which the conviction and sentence awarded by the Additional Sessions Judge was stayed.

(4) At that juncture the petitioner-Authorities appear to have removed the second respondent from service vide order dated 04.06.2009 apparently on the basis of his conduct which led to his conviction on a criminal charge by invoking powers under Rule 40 of the BSNL CDA Rules, 2006. The second respondent filed appeal but that too was rejected vide order dated 29.09.2009. Thereafter, respondent No.2 filed Original Application which was allowed by the Tribunal vide order dated 02.12.2010 giving rise to the present writ petition.

(5) This Court on 27.05.2013 stayed the order of the Tribunal and while admitting the writ petition on 11.11.2013 granted liberty

to the second respondent to seek early hearing after the decision of the criminal revision petition.

(6) The Criminal Revision Petition filed by the second respondent has been allowed in part by this Court vide judgement dated 22.09.2014 (R2/1) whereby he has again been ordered to be released on probation for one year subject to payment of compensation of ₹5000/- by each accused i.e. ₹30,000/- to the injured complainant.

(7) Since the Tribunal has decided the Original Application filed by the second respondent on the assumption that the criminal revision was pending in this Court in which his conviction had been stayed, we are of the considered view that the matter requires fresh adjudication by the Tribunal. We say so for the reason that in the impugned order, the Tribunal has not gone into the questions like (i) is it a case of conviction where the second respondent has been found guilty of an offence involving moral turpitude? (ii) whether the nature of charges proved against the second respondent would justify punishment of removal from service? (iii) if not, what else can be the adequate punishment? (iv) the length of service rendered by the second respondent and its impact on the service benefits to which he might be entitled to?

(8) For the reasons afore-mentioned, we allow this writ petition to the extent that the impugned order dated 01.10.2012 (P1) passed by the Tribunal is set aside and the matter is remitted to the

Tribunal for fresh adjudication preferably within *four months* from the date of appearance.

(9) Parties are directed to appear before the Tribunal on 05.04.2016.

(Surya Kant)
Judge

17.03.2016
vishal shonkar

(P.B. Bajanthri)
Judge