

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.14754 of 2013 (O&M)**  
**Decided on : 03.05.2016**

Amardeep Singh

... Petitioner

Versus

State of Punjab & another

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA**

Present : Mr.Rajiv Atma Ram, Sr.Advocate  
with Mr.Arjun Partap Atma Ram, Advocate,  
for the petitioner.

Mr.Aman Bahri, Addl.A.G., Punjab.

**G.S. Sandhawalia, J. (Oral)**

Petitioner challenges the order dated 12.06.2013 (Annexure P7) whereby he has been dismissed from service while serving as an Excise & Taxation Officer.

The reason of dismissal from service by the Financial Commissioner, Taxation, is that the petitioner had been convicted for 1 year along with a fine of Rs.1000/-, by the Judicial Magistrate, 1<sup>st</sup> Class, Ludhiana under Section 498-A IPC. Accordingly, keeping in view the instructions of the Government, the dismissal order was passed, after taking approval from the Punjab Public Service Commission. The impugned order had been stayed on 12.07.2013.

Specific plea has been taken by the petitioner that while passing the order of dismissal, the conduct which led to the

conviction, on account of his wife filing a complaint, has not been considered. It has also, accordingly, not been taken into account whether any lesser punishment could be imposed upon the petitioner and there has been no application of mind. Merely on the basis of the conviction, the impugned order of dismissal has been passed.

The said fact has also not been denied in the written statement and even from the perusal of the impugned order, it is not decipherable that there is any application of mind regarding this aspect. Rather there is no discussion as to the facts which led to the conviction.

In the writ petition, it is the case of the petitioner that the matter was pending before the Addl. Sessions Judge, Ludhiana, whereas the State Counsel submits that the appeal, now, stands dismissed and the petitioner has approached this Court, thereafter, in revision.

Without taking that aspect in mind and keeping in view the observations of the Division Bench of this Court in **Hari Ram Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. & another 2006 (2) SCT 112**, in which reliance has been placed upon in the judgment of the Apex Court in **Union of India Vs. Tulsiram Patel AIR 1985 SC 1416**. The relevant para reads as under:

“Keeping in view the aforesaid observations of the Supreme Court, we have examined the record produced by the respondents. A perusal of the record shows that the

respondents have not paid any attention to the conduct which led to the conviction of the petitioner as required by law. It was necessary for the respondents to examine the judgment of the Criminal Court and to assess the conduct of the petitioner to reach a conclusion as to whether it would be undesirable to keep him in service. The action of the management/employer must be based on relevant considerations. The impugned order in our opinion suffers from the vice of non-application of mind. Consequently, we are of the opinion that the impugned order deserves to be quashed on this short ground.”

This Court, thus, comes to the conclusion that the impugned order is not sustainable, in view of the law laid down, as noticed above. Factually, it has been recorded that the conviction of the petitioner led to the dismissal and the conduct has not been noticed.

Counsel for the State has made a valiant effort to take this Court to the judgment of conviction, to submit that it amounts to moral turpitude, on account of demand of dowry. The Apex Court in **Mohinder Singh Gill Vs. Chief Election Commissioner (1978) 1 SCC 405**, has held that reasons have to be mentioned in the order itself. Relevant portion of the judgment reads as under:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to

the observations of Bose J. In Gordhandas Bhanji case :

"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself".

Orders are not like old wine becoming better as they grow older."

The said view was followed recently by the Apex Court in **Dipak Babaria and another vs. State of Gujarat and others 2014 (3) SCC 502** and **State of Punjab Vs. M/s Bandeep Singh & others 2016 (1) SCC 724** wherein it was held that the State cannot be allowed to supplement or improve its stand by way of filing affidavits.

Resultantly, the present writ petition is allowed, the impugned order dated 12.06.2013 (Annexure P7) is hereby quashed. However, liberty is granted to the State, to pass a fresh order, keeping in view the above decision. Needless to say that it will be open to the petitioner to challenge the same, if need so arise. In case an adverse order is passed, the petitioner will be given 2 weeks' time to seek his remedy, in accordance with law.

**MAY 3, 2016**  
sailesh

**(G.S. SANDHAWALIA)**  
**JUDGE**