

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6928 of 2015.

Date of Decision:-16.05.2017.

Mohinder Singh Lather

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Jitender Nara, Advocate for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

The petitioner was subjected to parallel proceedings arising out of allegations relating to demand and acceptance of illegal gratification. In the criminal proceedings, the petitioner was convicted. Consequently, he has been dismissed from service on 31.8.2006. By virtue of order of dismissal, disciplinary proceedings initiated got stalled. In the criminal appeal, petitioner is stated to have been acquitted. Consequently, the present petition has been filed in respect of challenge to order of dismissal dated 31.8.2006 and consequential proceedings relating to disciplinary proceedings like charge-sheet and other consequential proceedings.

Learned counsel for the petitioner vehemently contended that in the parallel proceedings, alleged charges, witnesses and documents are identical. Since there is a judicial pronouncement in respect of criminal proceedings on the same issue, therefore, continuation of departmental inquiry is impermissible. In this regard, the petitioner has not approached the disciplinary authority to demonstrate that both the proceedings are identical by placing necessary material to show that charges levelled against

the petitioner in the criminal as well as disciplinary proceedings are one and the same so also witnesses and documents. In the absence of such contention before the disciplinary authority, this Court cannot examine whether charges are identical or not. Supreme Court, time and again held that parallel proceedings can be initiated even an employee acquitted in the criminal case there is no bar for holding the disciplinary proceedings. Therefore, the disciplinary authority is required to examine whether the charges and other relevant documents are identical to that of disciplinary proceedings. Therefore, the petitioner has not made out a case insofar as continuation of disciplinary proceedings. Insofar as challenge to order of dismissal dated 31.8.2006, the disciplinary authority is hereby directed to take a fresh decision whether order of dismissal dated 31.8.2006 survives or not in view of the petitioner being acquitted in the criminal case. Such action shall be taken by the concerned respondent within a period of 3 months from today. During the intervening period, the petitioner is entitled for consequential service benefits as well as monetary benefits be considered. Arrears shall be calculated and disbursed. Disciplinary proceedings are concerned, the petitioner is hereby directed to cooperate in the disciplinary proceedings if it is continued. The disciplinary authority is hereby directed to complete the disciplinary proceedings within a period of six months from today.

With the above observations, petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

May 16, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.