

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7024 of 2017
Date of Decision:-03.04.2017.

Ashok Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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

Present: Mr. Gopal Sharma, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

The petitioner has questioned the validity of dismissal order dated 30.9.2016 (Annexure P-9).

The petitioner was involved in a criminal case under the Prevention of Corruption Act, 1988 (for short 'the Act') in which he has been convicted on 10.6.2016 and sentenced was ordered on 14.6.2016 to undergo rigorous imprisonment for a period of 4 years under Section 7 of the Act and for 4 years under Section 13(1)(d) of the Act along with fine of ₹ 10,000/-. The disciplinary authority - Labour Commissioner while taking into consideration the conviction as well as factual aspects of the offences committed by the petitioner passed a detailed order and has come to the conclusion that the petitioner shall not be continued in the public interest.

Thus, he has proceeded to pass the penalty of dismissal from service while

invoking Rule 7 (2) (b) of the Haryana Civil Services (Punishment and

Appeal) Rules, 1987 read with Article 311 (2) (a) of the Constitution.

Learned counsel for the petitioner submitted that the disciplinary authority has not taken action in respect of others who were also similarly placed. It was further contended that he has filed a criminal appeal before the Court wherein the criminal appeal has been admitted and sentence has been stayed. Therefore, the disciplinary authority's order dismissing the petitioner from service is highly arbitrary and illegal.

Mere filing of a criminal appeal and obtaining an interim order of staying the sentence does not prohibit the disciplinary authority to proceed to impose penalty under Article 311 (2) (a) read with Rule 7 (2) (b) of the Haryana Civil Service (Punishment and Appeal) Rules, 1987. Thus, the petitioner has not made out a case so as to interfere with the order dated 30.9.2016. Insofar as discrimination meted out by the disciplinary authority is concerned, it all depends of each and every case and role played by employee. Therefore, question of discrimination do not arise in the matter.

Hence, petition stands dismissed. Reserving liberty to the petitioner to approach the disciplinary authority in the event the petitioner is acquitted in the criminal case for reviving the order dated 30.9.2016 (Annexure P-9), in accordance with law.

(P.B. BAJANTHRI)
JUDGE

April 03, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.