

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

Date of Decision : 30.11.2017

**1. CM No.13880-C of 2014 in/and
RSA No.5851 of 2014 (O&M)**

The General Manager, Haryana, Roadways, Kaithal
and others

..... Appellants

Versus

Satyawan

..... Respondent

**2. CM No.13925-C of 2014 in/and
RSA No.5859 of 2014 (O&M)**

General Manager, Haryana, Roadways, Depot Kaithal
and others

..... Appellants

Versus

Dharam Pal

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Dr. Sushil Gautam, DAG, Haryana
for the appellants.

Mr. Ramesh Malik, Advocate
for the respondent (RSA No.5851 of 2014).

Mr. R.K.Malik, Senior Advocate with
Mr. Tejpal Singh Dhull, Advocate
for the respondent (RSA No.5859 of 2014).

AJAY TEWARI, J. (Oral)

CM No.13880-C of 2014 in RSA No.5851 of 2014

For the reasons recorded, the application is allowed. Delay of 93 days in filing the appeal is condoned.

CM No.13925-C of 2014 in RSA No.5859 of 2014

For the reasons recorded, the application is allowed. Delay of 89 days in filing the appeal is condoned.

RSA No.5851 & 5859 of 2014 (O&M)

Since the issue involved is same both the appeals are decided by the common order.

Pursuant to the order dated 14.12.2016 passed in RSA No.5851 of 2014, Ram Kumar, General Manager, Haryana Roadways, Kaithal has placed on record an affidavit dated 08.05.2017 stating that he has deposited the costs.

The appeal bearing RSA No.5859 of 2014 has been filed against the judgment of the appellate court reversing that of the trial Court and thereby decreeing the suit filed by the respondent. The respondent had joined services as a Driver in the Haryana Roadways Depot Kaithal on 13.08.1998 and his services were terminated after 9 years on 23.11.2007 on the ground that the licence he had submitted at the time of his entry into service had been reported to be fake. Since the services of the respondent had not been regularized even after 9 years no inquiry was felt necessary and his services were terminated. The respondent challenged the termination order on the ground firstly that this stigmatic order could not have been passed without inquiry and secondly he also had another valid

licence at the time he entered into service and in the Fatehabad Depot some persons whose services had been terminated on the ground that they had submitted a licence at the time of employment which was later on found to be fake were reinstated into service on the ground that they also had another valid licence at the time of entry into service.

In the other appeal bearing RSA No.5851 of 2014, the slight difference on fact is that before the services of this respondent were terminated a second verification report had been received wherein it had been mentioned that the licence was valid yet without considering the second verification report or the fact that this respondent also had another licence his services were terminated. Ultimately relief granted to both the respondents was that the impugned orders were set aside and they were reinstated with out back wages in the same capacity as they were before their services were terminated.

In my considered opinion, once a stigmatic order had to be passed against the respondents an inquiry was mandatory to be held regardless of what their status was. In these circumstances, the finding returned in their favour that the services could not have been terminated in this cavalier fashion can not be interfered with. The Constitution Bench of the Supreme Court in the matter of *Managing Director, ECIL, Hyderabad and others v. B. Karunakar and others*, reported as **(1993) 4 Supreme Court Cases 727** has held that as a consequence of setting aside of order of termination or removal or dismissal further proceedings are required to be undertaken from that stage. Consequently, the matter would have to be remanded back to the disciplinary authority to conduct an inquiry into

whether the original licence/s submitted by the respondents were valid or fake. Of course if on regular inquiry it is found that the original licence/s submitted by the respondents were valid they would be entitled to be reinstated with all consequential benefits. If it is found that the original licence/s were not valid then also the disciplinary authority would have to consider the fact that similarly situated employees of Fatehabad Depot were reinstated into service on the ground that they had another valid licence/s and too thereafter pass a speaking order.

Learned counsel appearing for the respondents pointed out that the respondents have now been out of service for more than one decade and therefore a time-cap should be put on the inquiry.

In the circumstances, the appeals are disposed of with a direction to the disciplinary authority to now conclude the inquiry within 8 months subject to the respondents cooperating with the same. For this purpose the respondents are directed to appear before the disciplinary authority i.e. General Manager, Haryana Roadways, Depot Kaithal on 18.12.2017 and the General Manager, Haryana Roadways, Depot Kaithal is directed to ensure that a charge-sheet is prepared by that date so that the same can be served upon the respondents when they appear before him. The period of 8 months will commence from that date. It is further made clear that if inspite of the fact that the respondents are cooperating the inquiries are not concluded within the period prescribed, they would be entitled to recurring costs of Rs.10,000/- per month till such time the inquiry is completed. All the other benefits which may be granted to them would be subject to the result of the disciplinary proceedings.

Since strict time limit has been imposed, copies of this order be handed over to the learned Counsel appearing on behalf of the parties under the signatures of the Bench Secretary.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

30.11.2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No