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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-17187-2013

Date of decision-15.10.2018

Kashmir Singh

...Petitioner

Versus

Pepsu Roadways Transport Corporation and others

...Respondent

**CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Jagjit Singh, Advocate for the petitioner.

Mr. Vishal Moudgill, Advocate for the respondents.

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**JITENDRA CHAUHAN, J. (Oral)**

The claim of the petitioner in the instant writ petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Certiorari for setting aside the Show cause notice and Enquiry Report (Annexure P-1); order dated 19.03.2009 (Annexure P-2), passed by respondent No.3, whereby, the petitioner was dismissed from service; and order dated 27.11.2009 (Annexure P-3) passed by respondent No.2, thereby dismissing the appeal preferred by the petitioner against the order of dismissal (Annexure P-2).

It is the case of the petitioner that he joined the services of the respondent-Corporation as Assistant Tyreman on 17.07.1979. A false case under Section 15 of the NDPS Act was registered against him on 02.10.2007

on the allegations that 5 kg of poppy husk was recovered from an almirah lying in the workshop wherein the petitioner was posted.

It is contended that the alleged recovery was effected at about 10.30 a.m., whereas, the shift of the petitioner was to start at 2.00 p.m. The petitioner was not present on the spot at the time of alleged recovery and he was subsequently picked up by the police from his residence. Furthermore, there is no material on record to show that the almirah in question was under the exclusive control of the petitioner. It is further argued that the trial culminated in the acquittal of the petitioner vide judgment dated 25.08.2011 (Annexure P-4). Therefore, the petitioner deserves to be reinstated in service.

On the other hand, learned counsel for the respondent-Corporation submits that since the petitioner was punished because of departmental enquiry and not merely because of registration of FIR, the acquittal of the petitioner in the said case is immaterial. The impugned orders have been passed after following due procedure and also affording opportunity of hearing to the petitioner.

Heard.

From the perusal of enquiry report (Annexure P-1), it emerges that one witness, namely, Vijay Kumar, Mechanic, was examined during the enquiry proceedings who specifically stated that on the fateful day at about 10.30 a.m., the petitioner was brought by the police in the Workshop. Some packets of poppy husk were recovered from his almirah. On that day, the duty of the petitioner was to commence at 2.00 p.m. However, it has not

come on record whether the almirah in question was in exclusive possession of the petitioner and the keys thereof had been entrusted to the petitioner alone. In the absence of any such material, it cannot be conclusively held that the contraband recovered belonged to the petitioner. There is no dispute with regard to the fact that the acquittal in criminal case does not vest a right with the delinquent official to seek reinstatement, however, in view of the surrounding circumstances, acquittal of the petitioner is one of the favorable circumstances. The petitioner has otherwise more than 30 years of clean service record.

In view of the above, this Court is of the considered opinion that the impugned orders (Annexures P-2 and P-3) deserve to be quashed. It is ordered accordingly. The respondents are directed to reinstate the petitioner in service within six weeks from the date of receipt of a certified copy of this judgment. The petitioner shall also be entitled to continuity in service and the period of suspension and/or dismissal shall be construed as duty period. However, he shall not be entitled to any backwages for the period he remained out of service.

Allowed in the aforesaid terms.

**(JITENDRA CHAUHAN)**  
**JUDGE**

**15.10.2018**  
***atulsethi***

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |