

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

**CWP No. 1606 of 2016
Date of decision : 06.10.2018**

Kesar Devi

..Petitioner

versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Goyal, Advocate
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

RITU BAHRI, J.

In the present civil writ petition, the petitioner has sought quashing of letter No. 3900 dated 01.05.2006 (Annexure P-1) whereby the services of the petitioner were terminated; letter dated 11.09.2013 (Annexure P-6) whereby the petitioner was denied to join the duty and order dated 04.12.2015 Annexure P-13).

Petitioner joined the services of AWW in the respondent-department in the year 1982. However, in the year 2005, F.I.R No. 27 dated 09.02.2005 u/s 364-B/302/201/120-B IPC was registered against the petitioner. Subsequently, the services of the petitioner were terminated from 25.08.2005, vide letter dated 01.05.2006 (Annexure P-1). The petitioner was then convicted vide judgment dated 05/08.05.2008 with rigorous imprisonment for life and to pay a fine of Rs.2000/-. The petitioner filed CRA-D-395-CB-2008 before this Court against the said conviction

judgment dated 5/8.05.2008. The appeal came up for hearing on 02.02.2012 (Annexure P-2) and this Court set aside the impugned judgment of conviction 5/8.05.2008 qua petitioner and other co-accused. The State filed SLP before Hon'ble the Supreme Court against judgment dated 02.02.2012, which was dismissed, vide order dated 03.04.2013 (Annexure P-2) without issuing notice to the petitioner.

The petitioner approached the office of respondents for reinstating her as she was acquitted from the charges framed against her. A representation dated 17.10.2012 was given to respondent No. 2 in this regard but no action was taken. The petitioner then gave another representations dated 11.03.2013 and 17.07.2013 (Annexure P-4 and P-5) to reinstate the petitioner, as she was acquitted by Hon'ble High Court. Thereafter, a letter dated 11.09.2013 was sent to petitioner by respondent No. 2 by mentioning that charges framed against her were under serious sections, which involves serious offences. These offences comes under the list of moral turpitude and it was further mentioned that charges framed against the petitioner have not been decided by Court till now. The letter dated 11.09.2013 has been passed without considering the above mentioned representations of the petitioner, as she has already been acquitted of the charges framed against her. The petitioner then served a legal notice dated 17.06.2014 (Annexure P-7) to respondent Nos. 2 and 3 to reinstate the petitioner within 15 days and release arrears along with interest. In response to the legal notice, a letter dated 20.08.2014 (Annexure P-8) was sent to the petitioner for giving information regarding some points. The petitioner gave reply dated 06.09.2014 (Annexure P-9) that she do not have copy of the

judgment delivered by Hon'ble the Supreme Court of India but she gave copy of order dated 03.04.2013. Since no action was taken on the letter given by the petitioner, she again served a legal notice dated 01.04.2015 (Annexure P-10). Finding no alternative, the petitioner approached this Court by filing CWP No. 17257-2015 and this Court vide order dated 20.08.2015 (Annexure P-11) disposed of the writ petition by giving a direction to the respondents to decide the legal notice dated 01.04.2015 by passing a speaking order, within a period of two months. However, the respondents rejected the case of the petitioner, on the ground that firstly due to long custody of the petitioner, some worker was appointed on the post of the petitioner and secondly, as per instructions of the Government dated 08.01.2010, she cannot be taken back into service.

Learned counsel for the petitioner contends that once the petitioner has been acquitted by this Court and SLP against that judgment also stands dismissed, the petitioner is entitled to reinstatement along with all consequential benefits. The petitioner has been falsely implicated in the case and the petitioner succeed to prove herself innocent. The delay has been caused due to pendency of the case in Court of law. Thus, the impugned orders are liable to be set aside and the petitioner be reinstated with full back wages.

Learned counsel for the petitioner has relied upon a judgment of this Court in a case of *Sucha Singh v. State of Punjab and others, 2014 (2) RSJ 370* wherein it has been held that the order of conviction of the petitioner under the provision of Prevention of Corruption Act has been set aside and the petitioner stands completely exonerated. This Hon'ble Court

has no hesitation that in terms of Rule 7.3, the petitioner upon being acquitted would be entitled to full salary and allowances for the period in question.

Learned State counsel on the other hand at the very outset has referred to letter dated 08.01.2010 (R-1) wherein it has been clearly mentioned that it has been decided that though the Anganwari Worker and Helper is an Honorary worker, it is still essential for any person to bear a good character during their service tenure and it is the basic standard of service too. Therefore, if they are jailed for some reason and released thereafter on bail pending Court case, they should not be allowed to join on the post of Anganwari Worker and Helper. Further it has been clarified that if some special case is to be reconsidered, the Programme Officer may send the case to directorate with recommendations justifying the same.

Thus, the order dated 04.12.2012 has been passed by following principal of natural justice.

After hearing learned counsel for the parties at length, the present petition is liable to be dismissed, as the offences under which the petitioner was convicted were of serious nature and the post on which she was working requires a good character. She has rightly been not allowed to join the duties in view of letter dated 08.01.2010 (R-1). Further due to custody of the petitioner, some worker was appointed on the post of the petitioner. In the above mentioned letter, it has been mentioned that even if some released on bail, he/she should not be allowed to join on the post of Anganwari Worker and Helper, keeping in view the nature of job.

The impugned orders have rightly been passed against the

petitioner, keeping in view letter dated 08.01.2010 (Annexure R-1) and further the offences under which the petitioner was convicted was of serious nature. Even though the petitioner was acquitted by this Court and SLP filed by the State has also been dismissed, but she cannot be reinstated in to service, as per letter dated 08.01.2010 (Annexure R-1).

No merits.

Dismissed.

06.10.2018

G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>