

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

CWP No. 20004 of 2014 (O&M)

Date of Decision: 28.09.2018.

Santokh Singh

... Petitioner

Versus

Pepsu Road Transport Corporation and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. D.S. Patwalia, Sr. Advocate with
Mr. Guarav Rana, Advocate,
for the petitioner.

Mr. Anupam Singla, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks setting aside of order dated 27.08.2014 (Annexure P-11) passed by General Manager, PRTC, Ludhiana vide which representation moved by the petitioner for reinstatement has been rejected.

The petitioner was appointed as driver in 1994. He has served Pepsu Road Transport Corporation (for short “the Corporation”) for 15 years. On 16.05.2008, 9kg of poppy husk was recovered from the bus driven by the petitioner while he was on Narnol-Ludhiana route. FIR No. 73 dated 16.05.2008 under Section 15 of NDPS Act was registered against the petitioner in Police Station Dirba. The petitioner faced trial in the FIR case and ultimately, vide judgment dated 25.10.2013 passed by Judge, Special Court, Sangrur (Annexure P-8), he was acquitted of the charges.

In the interregnum period, on the basis of FIR, an enquiry was conducted against the petitioner by the department and the services of the petitioner were terminated vide order dated 12.06.2009 (Annexure P-5). An appeal was filed by the petitioner which was dismissed vide order dated 19.01.2010 (Annexure P-7). Thereafter, the petitioner filed civil suit challenging the termination order. During pendency of civil suit, the petitioner was acquitted, therefore, the petitioner withdrew the civil suit and had filed CWP No. 10121 of 2014 which was disposed of with a direction to respondent No.2 to decide the representation moved by the petitioner. Vide impugned order, Annexure P-11, the representation moved by the petitioner has been rejected.

It has been contended by the learned counsel for the petitioner that the allegations made in the charge-sheet are the off-shoot of the registration of FIR. Except the registration of FIR alleging recovery of 9 kg of poppy husk, there is no other allegation in the statement of allegations. Similar is the position qua allegation No.5 i.e. dereliction of duty and indiscipline. It has been further contended that so far as the loss caused to the Corporation is concerned, when the petitioner was in jail, it was the duty of the corporation to get released the bus. It has been further contended that if on the same set of facts, a person is acquitted, the disciplinary proceedings should also be dropped or if any order is passed, the same should be recalled. Learned

senior counsel relies upon **G.M. Tank vs. State of Gujarat & another**.

2006(3) SCT 252; (ii) Pawan Kumar vs. State of Haryana and others
CWP No. 4568 of 2013 decided on 08.04.2015; (iii) Vijay Pal vs.
State of Haryana 2017(2) SCT 479 and; (v) Satish Kumar Goel vs.
State of Haryana 2018(1) SCT 801.

On the other hand, it has been contended by the learned counsel for the respondents that FIR No.173 dated 16.05.2018 was registered against the petitioner. The petitioner was taken into custody. The bus was of the corporation was also taken into possession by the police due to illegal act of the petitioner, therefore, the corporation suffered a net loss of Rs.2,35,796/- on account of detention of bus from 16.05.2008 to 26.07.2008. The allegations mentioned in the charge-sheet are not similar to that of criminal case. In both the proceedings, the degree of proof and consequences are different. The departmental proceedings in the instant case are distinct and independent and they stood concluded much prior to the decision in the criminal case and the acquittal is of no consequence as the departmental action has already been taken against the petitioner, therefore, the punishment order cannot be recalled on account of acquittal of the petitioner at a later point of time. Learned counsel relies on Deputy Inspector General of Police and another vs. S. Samuthiram 2013(1) CTC 931.

Heard.

It is to be noticed that on 16.05.2008, 9kg of poppy

husk was recovered from the bus driven by the petitioner while he was

on Narnol-Ludhiana route. As a consequence, FIR No. 73 dated 16.05.2008 under Section 15 of NDPS Act was registered against the petitioner in Police Station Dirba. On the basis of FIR, an inquiry was conducted against the petitioner. Vide order dated 12.06.2009 (Annexure P-5) the services of the petitioner were terminated. The petitioner faced trial in the FIR case and ultimately, vide judgment dated 25.10.2013 passed by Judge, Special Court, Sangrur (Annexure P-8), he was acquitted of the charges. The services of the petitioner have been terminated only on the ground that he was involved in the FIR. That apart, there is nothing against the petitioner. The petitioner stands acquitted in the criminal case. Once the foundation of the departmental proceedings goes, the offshoot cannot stand and has to follow the suit. As regards the loss caused due to detention of bus of the corporation, it is observed that as the petitioner was behind bars, the duty fell upon the corporation to get released the bus. The petitioner cannot be held liable for the same.

In view of above, the present civil writ petition is allowed. The order dated 27.08.2014 (Annexure P-11) is set aside. The petitioner be reinstated in service with effect from 12.06.2009 with continuity of service. The necessary exercise be done within a period of two months from the date of receipt of copy of the order.

28.09.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No