

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

CWP No.20265 of 2018

Date of Decision:-16.08.2018

Rajbir Singh.

.....Petitioner.

Versus

Pepsu Roadways Transport & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Jai Bhagwan, Advocate Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner-Rajbir Singh has filed the instant writ petition, praying for setting aside of the order dated 26.02.2018 (P-12) passed by respondent no.1-Managing Director Pepsu Roadways, whereby the petitioner who was working as Driver, has been removed from the service, on various grounds including, being drunk on duty and handing over the bus to a private person for driving.

Learned Counsel for the petitioner has argued that while passing the impugned order, respondent no.1 has wrongly held that the petitioner was drunk on duty/addicted to drugs, as no medical examination was ever conducted upon him to prove the said charge. It is further argued that the statement of bus conductor of the bus cannot be relied upon as he was under the influence of the Authorities/Employer and, therefore, was

bound to depose against the petitioner. It is finally argued that the order passed is based on conjectures and surmises and, therefore, is liable to be set aside.

I have heard learned Counsel for the parties at length and have also perused the paper book with his able assistance. However, I am of the view that the present petition deserved to be dismissed.

At the very outset, it is seen that the petitioner has challenged only the order dated 26.02.2018 (P-12) passed by respondent no.1- Managing Director while dismissing the appeal, however, the basic order terminating the services of the petitioner i.e. 28.12.2011 P-7 as well as inquiry report have not been challenged at all. Thus, even if the order dated 26.02.2018 is quashed, still petitioner cannot be re-instated back in service due to non seeking of quashing of termination order dated 28.12.2011. Consequently, the present petition is liable to be dismissed on this score alone.

Even otherwise, on merits, it is seen that very serious allegations have been levelled against the petitioner. First allegation is that petitioner is addicted to liquor/drugs and consequently found drunk on duty on 26.07.2001. Second allegation is handing over of bus to another private person and third allegation is of entering into a quarrel with a female passenger. Although the averments of the petitioner are of complete denial, however, it is apparent from the record that the conductor of the bus namely Gurdev Singh has clearly deposed against him, stating all the facts. Merely because he is conductor of the bus does not warrant interference that he would depose as per the wishes of employer. Admittedly, the petitioner was given due opportunity of hearing and further, the inquiry officer, after

considering the factual aspect, had come to a conclusion that the petitioner was guilty of dereliction of duty. Not only this, as per contention of petitioner himself, dispute with the female passenger stands settled. Meaning thereby, some dispute had indeed arisen due to the conduct of petitioner, which he had subsequently compromised with petitioner. In any case, it is settled position of law that this Court, while exercising powers under Article 226 of the Constitution, cannot interfere in the factual aspects, which have been considered not once but twice by the concerned Authorities.

In this view of the matter, the Authorities concerned were right in initiating departmental action as per law and order petitioner's termination from service. Since petitioner was posted as driver of a public transport vehicle (BUS) therefore, it did not behove his conduct to be under the influence of iquor, fight with passengers and thus, hand over the bus to a private person as he was incapable of driving the same himself.

In view of the above, finding no merit in the present writ the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 16, 2018
Vinay

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