

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

**CM 19125/2018 in/and
CWP 29854/2017 (O&M)
Date of decision:18.12.2018**

Gurmail Singh

.....Petitioner

v.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Sandeep Arora,Advocate for the petitioner

Mrs.Anu Chatrath Kapur,Addl.AG Punjab for official
respondents.

Jaswant Singh,J,(Oral).

Petitioner was serving as a Workshop Superintendent and possesses 32 years of unblemished service record. By filing the present writ he has impugned order dated 29.11.2017 (P-9) whereby he has been dismissed from service without holding any inquiry on the ground of his conviction vide judgment dated 18.4.2017 passed by JMIC Phillaur in case FIR No.116 dated 3.10.2013, PS Goraya, District Jalandhar for the offence under Section 323,452 read with Section 34 IPC with sentence of three years and fine. The dispute was stated to be between family relatives.

Primary contention is that the impugned order (P-9) is liable to be set aside as the Authority has not formed an opinion based on the degree of moral turpitude, if at all, so as to entail the order of dismissal from service.

During the previous dates of hearing, keeping in view the case law on the subject and the fact that petitioner would have attained age of superannuation of 58 years on 31.12.2018, counsel for the petitioner and respondents had agreed in principle that the dismissal order be substituted

by an order of compulsory retirement.

At the time of hearing today, Mr.Parveen Kumar, Director Technical Education,Punjab is present in Court and states that no doubt the petitioner perhaps would be entitled to substitution of dismissal order by an order of compulsory retirement, however, the same is required to be done by the Appellate Authority since the petitioner has not exhausted that remedy.

Petitioner has filed CM 19125/2018 agreeing that he would have no objection if the order of dismissal is substituted by an order of compulsory retirement.

In view of the aforesaid facts, parties are relegated to the Appellate Authority for substitution of the order of dismissal by an order of compulsory retirement keeping in view the unblemished 32 years of service record of the petitioner and possibly no moral turpitude involved in the offence for which petitioner has been convicted and sentenced.

Accordingly, this writ petition is disposed of with a direction that petitioner shall file his appeal within two weeks from today and the same shall be decided on the aforesaid agreed lines by the Appellate Authority within next three weeks,failing which Authority concerned shall be liable to be hauled up in contempt proceedings.

The admissible retiral benefits shall also be released to the petitioner within four months from the date of passing of the order by the Appellate Authority.

18.12.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No