

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

CWP No. 7756 of 2018

Date of Decision: 28.03.2018

Gurmeet Singh

...Petitioner

Vs.

PEPSU Road Transport Corporation

...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.S. Salar, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. It took 3 years for PRTC to find the petitioner innocent of the allegations levelled against him regarding tickets issued to a fellow conductor which by mistake were picked up him at the time of distribution of pads of 100 tickets to each of the conductors before start of the journey. The amount representing the tickets was deposited by the petitioner on the same day in the quarters concerned. The services of the petitioner were terminated.

2. The Managing Director of PRTC after 3 years of the episode in appeal found the petitioner innocent of the false allegations of misconduct. The petitioner was reinstated as a conductor, but, those conductors who were appointed through the outsourcing policy through contractors, like the petitioner, secured direct appointment with the PRTC in the meanwhile. The Managing Director in his award Annex. P-3 records that the charge of embezzlement of Rs. 700/- holds no water when on evidence he found, agreeing with the petitioner at a personal

hearing, that by unwitting mistake the petitioner sold the tickets of the fellow conductor to the travelling public, mention of which is made on the Way Bill of that conductor, and, therefore, the petitioner had not embezzled any amount. On this premise, the petitioner was reinstated to service and posted at Patiala Depot. The order forfeiting security was cancelled with the declaration of innocence. On reinstatement, the legal position would be deemed to be as though the order was never passed and the petitioner continued in service by the fiction of law. As a result of it he had to be treated on par with those conductors like him who were fortunate to have continued in service and in the absence of the petitioner, forced out of service, had fortunately secured direct appointment with the Corporation. The petitioner has approached this Court for a mandamus to the respondent PRTC to treat him equally like his erstwhile shoulder-to-shoulder companions. The request is perfectly justified to accord similar treatment to the petitioner.

3. In view of this factual background, the petition is allowed, the respondent-PRTC is directed to reconsider the matter by addressing, the representation dated 18.01.2018 and also by treating the present petition as a supplementary representation and to decide the claim of the petitioner for direct contract with the Corporation without the intermediary and on the same terms as persons juniors/compatriots as become similarly placed by virtue of reinstatement and have secured the direct employer/employee relationship. Needless to say that the

petitioner will be heard and a speaking order passed on the contentions raised in the case. The authority would apply the principle of equality in Article 14 of the Constitution and convey the order to the petitioner. In case the petitioner's claim is found justified there would be no requirement of passing a speaking order and relief can be granted by administrative orders, with all consequential benefits.

4. With the above observations and directions, the petition is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

28.03.2018
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Whether speaking/reasoned : Yes
Whether reportable : No