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

CWP-8579-2018

Date of decision-06.04.2018

Indra Nath Jha

Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Indra Nath Jha, petitioner-in-person.

JITENDRA CHAUHAN, J.

The petitioner, a Teacher in St.Joseph Convent Senior Secondary School, Civil Lines, Bathinda, was respondent No.2 in a complaint under Section 138 of the Negotiable Instruments Act, 1881. Subsequently, he was declared a proclaimed offender by the Court of learned Judicial Magistrate First Class, Bathinda vide order dated 04.01.2014. As a consequence thereof FIR No.32 dated 10.03.2014 was registered at Police Station Canal Colony, Bathinda which culminated into his conviction vide a judgment dated 17.05.2017 passed by learned Additional Chief Judicial Magistrate, Bathinda. The petitioner was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- with default stipulation. Appeal against the said judgment of conviction was also dismissed by the Court of learned Additional Sessions Judge, Bathinda vide judgment dated 27.11.2017.

Respondent No.5 vide impugned order dated 30.11.2017

(Annexure P-4) considering the act and conduct of the petitioner, dismissed the petitioner, as grave and damaging to the reputation of the institution from the date of said order.

This Court vide judgment dated 06.12.2017 (Annexure P-5) partly allowed the revision petition preferred against the impugned judgments of conviction passed by the Courts below. The relevant part of the judgment reads as under:-

“Considering that the cheque amount was paid immediately on the day of registration of the FIR and that complaint under Section 138 of Negotiable Instruments Act was withdrawn, I am of the view that it is a proper case where the petitioner should be given a chance to reform himself. Therefore, while maintaining the conviction under Section 174 A IPC, which technically is made out, the sentence passed upon him is set aside and the petitioner is ordered to be released on probation under Section 5 (1) of the Probation of Offenders Act, 1958 (in short 'Act') on executing probation bond in the sum of Rs.10,000/- with one surety of the like amount, for a period of six months, with an undertaking to maintain peace and be of good behaviour and not to repeat this type of conduct. The petitioner be released forthwith, if not required in any other case. Probation bonds be executed within two weeks from the date of his release from the jail. It is further directed that as provided under Section 12 of the Probation of Offenders Act, 1958, his conviction shall not be treated as disqualification for any purpose whatsoever. The petition is partly allowed.”

The sole contention of the petitioner is that in terms of the judgment dated 06.12.2017 (Annexure P-5) wherein it is specifically held that the *“conviction of the petitioner shall not be treated as disqualification for any purpose whatsoever”*, respondents ought to have reinstated the petitioner into service.

Heard.

A perusal of the judgment/order dated 06.12.2017 (Annexure P-5) reveals that the conviction of the petitioner has been maintained whereas only the order of sentence has been set aside. The services of the petitioner were terminated in view of the Clause 3.10 of the Service Conditions, Rules of Conduct and discipline for the Employees of the Institution of the Bethany Educational Society, Mangalore, which reads as under:-

“3.10.provided further, that an employee shall be dismissed or terminated from service without holding an enquiry on the ground of conduct, which has led to his/her conviction on a criminal charge”

A bare perusal of the above said rule makes it amply clear that an employee shall be dismissed/terminated from service without holding an enquiry on the ground of misconduct resulting into his conviction on a criminal charge.

Admittedly the conviction of the petitioner and the probation period are still subsisting. Therefore, this Court feels that the petition is pre-mature at this stage.

Dismissed as pre-mature at this stage.

(JITENDRA CHAUHAN)
JUDGE

06.04.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No