

Sr. No.110

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

**CWP No.37769 of 2018 (O&M)
Date of Decision: 20.12.2018**

Bijender Singh

... Petitioner

Versus

State of U.T., (Chandigarh) and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ram Kumar Saini, Advocate,
for the petitioner.

ARUN MONGA, J.(ORAL)

Present writ petition has been filed to issue a writ in the nature of mandamus directing the respondents to reinstate the petitioner in service and give all benefits of continuity of service including back wages w.e.f. 28.04.2008 when the name of the petitioner was originally ordered to be excluded from the Muster Roll of Muncipal Corporation, Chandigarh.

2. The petitioner while in service was named as an accused in FIR No.97 dated 14.05.2008 (Annexure P-6) which led to filing of the charge-sheet and consequential criminal proceedings in the Court of Judicial Magistrate Ist Class, Chandigarh. Since the name of the petitioner was struck of from the Muster Roll owing to the same set of charges and the facts which led to the registration of the FIR, his name, therefore continued to be excluded from the Muster Roll till the adjudication of the criminal proceedings

pending in the District Court, Chandigarh. Finally, on 12.01.2017, the petitioner was acquitted of the charges framed against him in the said criminal proceedings.

3. Learned counsel for the petitioner contends that the petitioner has been representing vide representations dated 17.05.2017, 17.08.2017, 27.02.2018 and 16.05.2018 (Annexures P-7 to P-10) from time to time. He further contends that the case of the petitioner was also referred to Law Officer of the Department who also rendered a favorable opinion dated 02.02.2018 vide Annexure P-11. He contends that the Law Officer gave an unambiguous opinion that in view of the acquittal of the petitioner by the District Court, Chandigarh he is entitled for reinstatement.

4. The said Law Officer also observed that the petitioner was removed from service without following the due procedure of law i.e. without giving him an opportunity of hearing in person or conducting any proper inquiry.

5. Learned counsel for the petitioner further contends that similarly situated persons viz Sh. Thakur Singh and Sh. Cheddi Lal who were also acquitted from criminal proceedings by the District Court have been given the benefit of reinstatement in their respective services vide order dated 30.12.2013 (Annexure P-12). He further contends that even Law Officer opined on that score also that the petitioner is entitled to the same benefit of reinstatement as similarly situated persons have already been reinstated. Notwithstanding, the petitioner continues to be out of job due to inaction of the respondents.

6. This Court is of the considered view that the present petition can be disposed of without any formal notice and without any further proceedings.

7. Petition is disposed of with a direction to respondent No.2-The Commissioner, Municipal Corporation, Chandigarh to pass a speaking order in view of the submissions made in various representations of the petitioner and also by treating the present writ petition as supplementary representation as also keeping in mind the contentions of the learned counsel for the petitioner as noted above within a period of two months from the date of receipt of a copy of this order. Registry is directed to communicate the order along with copy of writ petition to respondent No.2.

(ARUN MONGA)
JUDGE

20.12.2018

vandana (3)

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No