

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

LPA-222-2019 (O&M)
Date of decision:- 07.03.2019

Madan Lal

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Rahul Bhargava, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 09.01.2019 passed by learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein) challenging his dismissal from service upon conviction in a case pertaining to offence punishable under the Prevention of Corruption Act, 1988 (in short the Act).

2. Facts relevant for adjudication of the controversy in brief can be summarized as under:-

An FIR was registered against the appellant under Sections 7 and 13(2) of the Act at Police Station Vigilance Bureau, Patiala, while he was working on the promoted post of Clerk in Municipal Committee, Rajpura, District Patiala. He was placed under suspension. Subsequently, after investigation, a charge-sheet was submitted and the appellant was put to trial. The Municipal Committee, Rajpura reinstated the appellant and utilized his services pending trial. The trial of the appellant ended in conviction and vide judgement

and order dated 08.12.2016 passed by learned Trial Court, he was found guilty and punished for having committed offence under Section 7 read with Section 13(2) of the Act.

3. It is an admitted case that an appeal against conviction is pending, but there is no stay on conviction. Learned Single Judge relying upon a catena of judgements of this Court as well as the Hon'ble Apex Court held that when the dismissal is based on conviction, no notice or opportunity is required to be given and in such a situation, it cannot be said that principles of natural justice stand violated.

4. Learned counsel for the appellant vehemently contended before us that in view of Article 311(2) of the Constitution of India, the penalty of dismissal from service could not have been inflicted upon him unless he was informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. It is further submitted that the dismissal order of the appellant being in violation of the provisions of Article 311 of the Constitution of India is bad in law and is liable to be set aside.

5. We are afraid the argument is totally misconceived. No doubt, Article 311(2) prescribes that no employee shall be inflicted with any punishment except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. However, Article 311(2) carves out exception and one such exception is contained in sub-clause (a), which reads as under:-

“(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or”

6. In view of the proviso to Article 311(2), the action taken by the respondents - employer cannot be said to be in violation of Article 311(2) of the Constitution of India inasmuch as the dismissal of the appellant from service is result of his conviction in a criminal charge. Needless to point out that the learned Single Judge has clearly observed that in case the appellant succeeds in appeal or other proceeding, the matter can always be reviewed, in such a manner that he suffers no prejudice, in consonance with the provisions of law.

7. In view of the aforesaid facts and circumstances, we see no good ground to take a view different from the one taken by learned Single Judge. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

07.03.2019
Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No