

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

Sr. No.226

**CWP No.8148 of 2019
DECIDED ON: 10.09.2019**

JAGDEEP KAUR

..PETITIONER

VERSUS

STATE OF PUNJAB & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Siddharth Gupta, Advocate,
for the petitioner.

Mr. P.S. Bajwa, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner herein seeks issuance of a writ in the nature of certiorari to quash an order dated 20.09.2018 (Annexure P-9) whereby petitioner services as Government JBT Teacher were terminated as she was convicted in a criminal case.

2. Perusal of the records shows that, no doubt, the petitioner was convicted under Section 325 of IPC by the competent criminal Court and the said conviction was upheld by the Appellate Court. But in criminal revision petition filed by the petitioner before this Court bearing CRR No.3748 of 2017 decided on 16.12.2017 (Annexure P-6) the punishment of conviction awarded by the trial Court was reduced to the sentence to the one already undergone by her while in custody during investigation and trial of the case.

3. Another aspect that requires special mention herein is that during the pendency of the revision petition, a compromise was arrived at between the petitioner and the complainant in the FIR. However, despite

CWP No.8148 of 2019

the petitioner having represented to the department for taking her back in service as the conviction under Section 325 of IPC did not amount to moral turpitude, her request was rejected vide an order dated 20.09.2018 (Annexure R-2). On the ground, that since she was a convicted employee, she cannot be taken back in service. The petitioner preferred an appeal against rejection of her representation vide an appeal, which too, was dismissed vide an order dated 11.01.2019 (Annexure R-3), stating that there is no new fact pleaded by her in the appeal and because the employee is a convict and has undergone punishment, therefore, cannot be taken back in service. The appellate order further states that because the employee has undergone a sentence and not being acquitted, therefore, she is dis-entitled to seek any benefit of the order passed by this Court in the revision petition whereby, at best, her sentence has been reduced.

4. Having perused the orders Annexures R-2 & R-3, I am of the view that the same have not dealt with the substantive issue involved herein i.e. whether the offence under which the petitioner was convicted amounts to moral turpitude so as to dis-entitle her to seek reinstatement. There is no reasoning given in the said orders as to how does the offence committed by the petitioner and undergoing of the imprisonment interferes with the discharge of her duties in case she is reinstated. In this context, reference may be held to the judgments rendered by the Hon'ble Supreme Court in case ***State of Haryana and another Vs. Ved Kaur reported as 2017 AIR (SCW) 2337*** and as also ***State Bank of India and others vs. P. Soupramaniane reported as 2019 AIR (SC) 2187***.

5. I may hasten to add here that moral turpitude in societal parlance vis-a-vis service jurisprudence would necessarily mean that the

CWP No.8148 of 2019

same has to have a direct connection to the nature of duties to be discharged by an employee.

6. Moral turpitude in each case, depends on the circumstances of the case and therefore, it is incumbent on the competent authority to exercise its discretion while taking a decision after going through the judgment passed by the competent criminal Court followed by the Appellate Court before coming to the conclusion as to the benefit of the same is to be given to an employee.

7. In the present case, having gone through the orders passed by the competent authority as upheld by the Appellate Authority, I am of the view that neither the competent authority nor the Appellate Authority has applied its mind to the circumstances of the case which would dis-entitle the petitioner seeking reinstatement on the ground of her having committed moral turpitude of the nature which impinges on the duties expected of her in case she is reinstated.

8. In the premise, the impugned order dated 20.09.2019 (Annexure P-9) is set aside with liberty to the respondents to pass a fresh order after going through the judgment dated 11.12.2014 (Annexure P-4) as also the orders passed by this Court in CRR No.3748 of 2017 (Annexure P-6), within a period of two months from the date of receipt of certified copy of this order.

9. Disposed of accordingly.

10.09.2019

Ankur

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No