

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

CWP-1323-2016 (O&M)
Date of decision : 09.07.2019

Sukhjeet Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Pushpinder Kaushal, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for quashing of impugned order dated 17.04.2015 (Annexure P-6), passed by respondent no.2, whereby, while treating his application/representation (Annexure P-5) as a revision, the same was dismissed without providing an opportunity of hearing.

It is contended that the petitioner has been in service of respondent No.3 since 01.01.1994. A complaint was moved by one Sarvan Kaur on the ground that the petitioner had performed marriage with her daughter, Kuljit Kaur, on 07.01.1991 and one male child was born from the wedlock. However, during the subsistence of his first marriage, he performed second marriage with Amarjit Kaur in the year 1994. It was further stated that her daughter has been missing since 28.04.1998 and FIR No.173 dated 15.10.1998 under Section 364 IPC was got registered against

the petitioner. Pursuant to the complaint, an enquiry was conducted and finding the petitioner guilty of performing two marriages, the petitioner was dismissed from service vide order dated 22.06.2000 (Annexure P-1). Aggrieved against the order dated 22.06.2000 (Annexure P-1), the petitioner preferred an appeal (Annexure P-2), which was also decided against the petitioner by respondent No.2 vide order dated 21.06.2001 (Annexure P-3). Meanwhile, the petitioner was convicted and sentenced for RI of 10 years with fine of ₹5,000/- by the Court of learned Additional Sessions Judge, Kapurthala. This Court in an appeal preferred by the petitioner bearing CRA-S-978-2003, affirmed the judgment of conviction passed by the trial Court. However, Hon'ble the Supreme Court vide judgment dated 11.09.2014 (Annexure P-4), set aside the conviction and acquitted the petitioner from the charges framed against him. After his acquittal, the petitioner moved a representation dated 07.10.2014 (Annexure P-5) to the authorities for his reinstatement in service with all consequential benefits.

The grouse of the petitioner is that respondent No.2, while treating the said representation as a revision, outrightly rejected the same on the ground of delay vide impugned order Annexure P-6. No opportunity of hearing was afforded to the petitioner before passing the impugned order which is violative of the Articles 14, 16 and 21 of the Constitution of India as well as the principles of natural justice.

On the other hand, learned State counsel submits that due and proper procedure was followed before passing the impugned orders. In the departmental enquiry, the petitioner was found to have performed second marriage during the subsistence of first marriage.

Heard.

Admitted facts of the case are that on receipt of complaint against the petitioner, a preliminary enquiry was conducted and it was found that the petitioner had performed two marriages and the whereabouts of his first wife-Kuljit Kaur were unknown. Thereafter, regular departmental inquiry was conducted in which the petitioner was found guilty. He was issued show cause notice dated 19.05.2000 and ten days were given to him to file reply. The notice was duly received by the petitioner on 25.05.2000, however, he did not file any reply within the stipulated period. Even, further five days' time was given to him but he did not file any reply to the show-cause notice. Thereafter, the order of dismissal was passed against him. The petitioner filed an appeal against order dated 22.07.2000 (Annexure P-1), which was also dismissed. During the appellate proceedings, he himself has admitted the factum of marrying Kuljit Kaur, however, had taken a stand that it was under threat and duress from the family of Kuljit Kaur. Therefore, he has rightly been held guilty of violation of Rule 21 of the Govt. Employees (Conduct) Rules, 1966.

The solitary argument raised on behalf of the petitioner is that his representation (Annexure P-5) was wrongly considered as a revision and same was dismissed without affording any opportunity of hearing to him. The appeal preferred by the petitioner was rejected on 21.06.2001 (Annexure P-3). Thereafter, the petitioner did not avail the remedy of filing a revision against the order passed by the appellate authority and thus, order Annexure P-3 had attained finality. It was only after about 14 years

therefrom, that application dated 07.10.2014 was moved by him seeking relief of reinstatement and other consequential benefits on the ground of his acquittal in the criminal proceedings. However, it is to be noted that the criminal proceedings were lodged against the petitioner under Section 364 IPC for which he was tried by the criminal Courts, whereas, the departmental proceedings were primarily against the proven fact that the petitioner had solemnized two marriages. Even otherwise, it is settled law that the criminal proceedings have no bearing on the departmental proceedings. Reliance in this regard can be placed on a judgment rendered by Hon'ble the Supreme Court in ***Union Territory, Chandigarh Vs. Pradeep Kumar and another***, Civil Appeal No. 67 of 2018 (Arising out of SLP(C) No.20750 of 2016), decided on 8 January, 2018, wherein, it has been held as under:-

“13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of this Court in Mehar Singh and Parvez Khan cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The

Screening Committee also must be alive to the importance of the trust repose in it and must examine the candidate with utmost character.”

In this view of the matter, this Court does not find any force in the arguments raised on behalf of the petitioner.

The instant petition sans merits and is accordingly, dismissed.

09.07.2019
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(JITENDRA CHAUHAN)
JUDGE

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