

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

SMRITI
2017.09.13 11:37
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CWP-23651-2016

Date of Decision: 09.09.2019

Avtar Singh

... Petitioner

vs.

Pepsu Road Transport Corporation & Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vishal Garg, Advocate
for the petitioner.

Mr. Anupam Singla, Advocate
for the respondents.

ARUN MONGA, J.(ORAL)

Challenge herein, *inter alia*, is to an order dated 03.02.2011 (Annexure P-2), whereby, the petitioner has been dismissed from service pursuant to departmental disciplinary proceedings.

2. During the pendency of the departmental proceedings/appeal, the petitioner was also facing criminal proceedings based on the same set of charges on which the departmental proceedings were conducted against him. He was held guilty and sentenced in criminal proceedings by the trial Court but in an appeal filed against his conviction, the petitioner was acquitted by the Sessions Court vide judgment/order dated 11.09.2013 (Annexure P-3).

3. Pursuant to his acquittal in criminal proceedings, the petitioner, vide his representation/follow-up appeal, requested the department to take a fresh look in the matter in view of his acquittal by the Court of Sessions. The said request was summarily rejected vide letter dated 20.08.2015 (Annexure P-4). Learned counsel for the petitioner has placed reliance on a

judgment dated 30.03.1999 rendered by Hon'ble the Supreme Court of India in case titled **Capt. M Paul Anthony vs. Bharat Gold Mines Ltd.** reported as 1999 AIR (SC) 1416.

4. Having heard the rival contention of the learned counsels appearing for the respective parties, I am of the view that the case of the petitioner is squarely covered by a judgment dated 30.03.1999 rendered by Hon'ble the Supreme Court of India in Civil Appeal No. 1906-1999 titled as **Capt. M Paul Anthony vs. Bharat Gold Mines Ltd.** reported as 1999 AIR (SC) 1416. The department ought to have taken a fresh look on the appeal filed by the petitioner by going through the order/judgment vide which he was acquitted by the Sessions Court, particularly, keeping in view that the departmental proceedings were also instituted on the same very charges for which the criminal proceedings were going on simultaneously and the witnesses in the departmental proceedings were the same as in the criminal trial.

5. In the premise, impugned order 03.02.2011 is set aside with a direction to the respondent to pass a fresh speaking order on petitioner's representation/appeal referred to in Annexure P-4 in the light of judgment/order dated 11.09.2013 (Annexure P-3) vide which the petitioner was acquitted.

6. Let needful be done within a period of three months from the date of receipt of certified copy of this order.

09.09.2019
smriti

(ARUN MONGA)
JUDGE

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