

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

**CWP NO. 19192 OF 2018
DATE OF DECISION : 19.09.2019**

Harmeet Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Som Nath Saini, Advocate,
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Inter-alia, issuance of a writ in the nature of certiorari to seek quashing of appellate order dated 30.06.2018 (Annexure P-6) passed by the Appellate Authority i.e Additional Principal Secretary, Health and Family Welfare Department, Government of Punjab, whereby an order dated 25.01.2016 (Annexure P-1) dismissing the petitioner from service, passed by Director Health Services, has been upheld.

2. Succinctly, factual narrative first. Petitioner was appointed as Multipurpose Health Worker (Male) against a regular post and his services were confirmed on successful completion of probation period. The petitioner contends that until the passing of impugned order dated 25.01.2016 (Annexure P-1), there was not a whisper against the functioning and conduct of the petitioner and he had unblemished service record of 16 years. On personal front, petitioner's marriage fell on the rocks and resulted into criminal proceedings under Sections

498-A/406 of the Indian Penal Code (hereinafter referred to as "the IPC"), instituted by his wife, wherein the petitioner was convicted by the competent trial Court vide its judgment dated 24.05.2014 and sentenced to undergo rigorous imprisonment for a period of one year under Section 498-A IPC and to pay fine of ₹1000/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.

3. An appeal preferred against the above said conviction order was dismissed but revision petition bearing CRR No.431 of 2016 assailing the appellate court order is pending before this Court. The sentence of the petitioner has throughout remained suspended.

4. While on the other hand, an FIR No.27 dated 04.02.2009 was registered against the petitioner under Sections 170/466/468/471 IPC and Court of Judicial Magistrate Ist Class, Batala (hereinafter referred to as "the JMIC"), vide a judgment dated 07.02.2016 convicted the petitioner under Sections 170/466/471 IPC. An appeal bearing No.96 of 2016 was filed before the Sessions Judge against the said judgment passed by the JMIC, which was accepted and the petitioner was acquitted.

5. In the background of these criminal proceedings, vide order dated 25.01.2016, the petitioner was dismissed from service on the ground of his conviction vide judgment dated 24.05.2014 under Sections 498-A IPC. Hence the writ petition.

6. In return filed by the respondents, it is contended that the petitioner has been rightly dismissed from service in view of his having been sentenced under Section 498-A IPC. It is further stated that petitioner remained in judicial custody with effect from 07.02.2009 to

dated 04.02.2009. He also remained suspended from service with effect from 07.02.2009. Eventually, he was found guilty by the Court of JMIC and was sentenced as under :

Name of the accused	Offence Under Section	Rigorous Imprisonment	Fine(in Rs.)
Harmeet Singh	170 IPC	Three months	500/-
	466 IPC	Two years	1000/-
	471 IPC	One year	500/-

In the aforesaid premise, petitioner does not deserve any leniency and therefore, dismissal of the writ petition has been sought.

7. Having heard rival contentions of learned counsel for the parties and on perusal of the pleadings along with the record appended therewith, I am of the view that the disciplinary authority ought to have considered the acquittal judgment and the reasons contained therein, vide which the petitioner was acquitted in the criminal proceedings arisen out of his matrimonial discord as well as the acquittal judgment passed by the Appellate Court arising out of criminal proceedings qua FIR No.27 dated 04.02.2009.

8. Dismissal from service is akin to economic death penalty and entire family is reduced to live in penury and undergoes the punishment along with a delinquent employee. Being a stigma, dismissal from service, renders delinquent employee unemployable for rest of his life. It is another matter if after going through the acquittal judgments, the competent authority is of the view that there exists nexus between the nature of allegations and the conduct of the petitioner that would amount to moral turpitude of the kind so as to render him unfit to be in service.

9. In somewhat similar circumstances, I have already

expressed my mind in a judgment rendered in CWP No. 8877 of 2015 dated 03.07.2019 in the following terms :

"14. In the premise, there was utter violation of settled law on the part of the disciplinary authority in not considering, as to whether there existed any linkage or connection between the conviction of the petitioner on the allegations of his wife and the propriety of his continuing in service.

15. Perusal of the impugned order (Annexure P-7) shows that the disciplinary authority passed it simply and only for the reason that because of the decision of the Courts, the character and conduct of the petitioner does not permit his retention in service. I am inclined to accept the contention of the learned counsel for the petitioner that it was incumbent upon the disciplinary authority to take into consideration the conduct of the petitioner which led to his conviction by Courts and further, to consider the entire conduct of the petitioner, the gravity of the misconduct committed by him, the impact which his misconduct was likely to have on the administration and other extenuating or redeeming features in the case. The impugned order Annexure P-7 is totally silent and lacking on these aspects. It is, therefore, held to be in violation of the settled law as enunciated in the foregoing judgments of the Hon'ble Supreme Court and of the two Division Benches of this Court and not legally sustainable."

10. Having perused the impugned order passed by the disciplinary authority as well as the appellate authority I am of the opinion that the same have not been passed by taking into consideration the above parameters.

11. In the aforesaid premise, the impugned order dated 25.01.2016 (Annexure P-1) is set-aside, with liberty to the respondents to pass fresh orders after going through the judgment dated 03.07.2019 passed in CWP No.8877 of 2015. It would be appreciated if the petitioner is accorded personal hearing before passing any fresh order.

12. The petitioner is also at liberty to submit a fresh representation to respondents detailing the grounds therein.

(ARUN MONGA)
JUDGE

SEPTEMBER 19, 2019
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Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No