

Sr. No.250

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

CWP No.24698 of 2019 (O&M)

Date of Decision: 15.11.2019

Paramjit Kumar @ Paramjit Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. B.S.Toor, Advocate,
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

ARUN MONGA, J.(ORAL)

1. Reply by way of an affidavit of Deputy Superintendent of Police, Headquarter, Hoshiarpur on behalf of respondents No.1 to 4 filed in Court today, which is taken on record. Registry is directed to tag the same at the appropriate place.

2. Petitioner herein, *inter alia*, seeks quashing of order dated 13.10.2016 (Annexure P-3) whereby the petitioner was dismissed from service and order dated 11.04.2017 passed by the Appellate Authority rejecting his appeal (Annexure P-5) as also order dated 08.03.2019 (Annexure P-9) vide which dismissal of the petitioner was converted into compulsory retirement.

3. The solitary reason leading to the dismissal of the petitioner from service was registration of an FIR No.128 dated 29.09.2016 against him under Section 27/61/85 of NDPS Act. The

said FIR was later quashed by this Court vide order/judgment dated 09.05.2018 (Annexure P-6).

4. Backed with the said quashing of FIR, the petitioner approached the department for his reinstatement in service and instead of being accorded the benefit of quashing of the FIR and taking him back in service, his dismissal order was converted into compulsory retirement vide order dated 08.03.2019 (Annexure P-9) impugned herein. No independent departmental proceedings were initiated against the petitioner.

5. In the return filed to the writ petition, the prayer of the petitioner for reinstatement in service has been resisted on the ground that pursuant to the FIR, which concededly has been quashed qua the petitioner, one lady Ms. Gurbax Kaur was taken in custody, who made a statement that the petitioner supplied her an intoxicant substance for selling the same and he used to share the earning from the smuggling of the intoxicant substance. Certain other allegations have also been made against the petitioner apparently based on the statement of the same lady Gurbax Kaur while her statements were recorded during her custody period pursuant to the said FIR.

6. The stand taken by the respondent-State does not stand judicial scrutiny of law. Suffice to state not only the statements relied upon in the affidavit are not admissible in law being same were recorded while in police custody. Even otherwise, the said FIR pursuant to which the statements have been recorded cannot be given cognizance as the FIR itself has been quashed by an

order dated 09.05.2018 (Annexure P-6), *ibid*, qua the petitioner.

7. On that premise alone, impugned orders dated 13.10.2016, 11.04.2017 and 08.03.2019 Annexures P-3, P-5 and P-9 respectively are set aside and writ petition is allowed.

8. Respondents are directed to take the petitioner back in service. Let the needful be done within a period of 30 days from the date of receipt of a certified copy of this order.

9. It is made clear that petitioner shall be allowed to continuity in service but no salary shall be payable to the petitioner for the period he remained out of service on the principle of “*no work no pay*”.

10. Allowed in the above terms.

15.11.2019

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No