

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

**CWP NO. 11356 OF 2011
DATE OF DECISION : 16.09.2019**

Balbir Singh

...Petitioner

versus

**Punjab State Power Corporation Limited
and others**

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. K. S. Dadwal, Advocate,
for the petitioner.

Ms. Madhu Dayal, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

1. Petitioner herein seeks quashing of order dated 27.05.2011 (Annexure P-8) whereby petitioner has once again been dismissed from service, despite the fact that earlier order of his dismissal was set-aside and his revision against the order of conviction stood admitted and his sentence was suspended by this Court.

2. Succinctly, facts of the case are that petitioner was dismissed from service 08.01.1998 on account of embezzlement of public money after a departmental proceeding. An FIR bearing No.11 dated 31.01.1995 under Sections 409/420/467/468/471 of the Indian Penal code (hereinafter referred to as "the IPC") was also got registered against him. Petitioner challenged the said

dismissal order before the civil Court and the same was set-aside and pursuant thereto, he was reinstated into service.

3. The criminal proceedings against the petitioner culminated into his conviction vide trial Court judgment dated 11.09.2013, which was upheld in the appeal preferred by the petitioner. Respondent again issued Show Cause Notice to the petitioner asking him to explain as to why he be not dismissed from service on account of his conviction. The petitioner was granted personal hearing and thereafter, he was dismissed from service vide order dated 27.05.2011 (Annexure P-8) impugned herein.

4. Learned counsel for the petitioner does not dispute that the petitioner was convicted under Section 409 of the Indian Penal Code (hereinafter referred to as "IPC") by the competent criminal court. An appeal filed against the said conviction before the Sessions Court was dismissed and so was the fate of revision petition filed by the petitioner before this Court. Resultantly, the conviction of the petitioner attained finality and he is stated to have undergone the sentence awarded to him by the trial Court.

5. When criminal proceedings were going on against the petitioner, the department initiated inquiry proceedings as well. Pursuant thereto, he was indicted and later on dismissed from service. However, in collateral proceedings instituted by the petitioner, the said departmental proceedings were set-aside which resulted in his reinstatement. It is after his reinstatement

that the petitioner was convicted, which as per learned counsel for the respondent, was never intimated by him until the same came to the knowledge of respondent-PSPCL. Earlier the petitioner was allowed to continue in service but later on after coming to know about the said conviction, vide order dated 27.05.2011 (Annexure P-8) impugned herein, the petitioner was dismissed from service.

6. An appeal is provided against the said dismissal, but the petitioner preferred impugning the said order by way of filing instant writ petition. Even though alternative remedy, as stated, is available but at this belated stage it would be unfair to relegate the petitioner to avail alternative remedy when his petition is coming up for final hearing after eight years.

7. I have heard learned counsel for the parties and have perused the case file and I am of the view that the entire tone and tenor of the contents of the impugned order directly proceed on the basis of petitioner having been convicted by the competent criminal Court and having undergone the sentence awarded therein.

8. Learned counsel for the petitioner has drawn my attention to Rule 14, particularly sub clause (1) of the Punjab State Electricity Board (predecessor-in-interest) Employees Punishments and Appeal Regulations, 1971. For ready reference the same is reproduced herein below :

14. Notwithstanding anything contained in Regulations 8, 9, 10, 11, 12 and 13 :

(i) where any penalty is imposed on an employee on the ground of conduct which has led to his conviction on a criminal charge;

(ii) where the punishing authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these regulations; or

(iii) where the Board is satisfied that in the interest of the security of the state, it is not expedient to hold any inquiry in the manner provided in these regulations, the punishing authority may consider the circumstances of the case and make such orders thereon as it deems fit.”

9. A perusal of the above leaves no manner of doubt that it is irrelevant whether the petitioner has been indicted or exonerated in the departmental proceedings. Suffice it to say for the purpose of the Rule *ibid* that the petitioner was convicted and the said conviction had attained finality and therefore, the impugned order was passed, vide which he was dismissed from service. The impugned order does not suffer from any infirmity.

10. In the premise, no ground for interference by this Court is made out. Consequently, the writ petition is devoid of any merit and the same is dismissed. No order as to costs.

11. At this stage, learned counsel for the petitioner submits that petitioner is entitled to benefit of Rule 2.5 of the Punjab Civil Services Rules which contains enabling provision for

grant of compassionate allowances. I am not inclined to deal with the said contention as the same is beyond the scope of instant writ petition. However, the petitioner is at liberty to pursue his case with the department, in accordance with law, in case the aforesaid Rules are applicable to him.

(ARUN MONGA)
JUDGE

SEPTEMBER 16, 2019
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Whether speaking/reasoned :	Yes/No
Whether reasoned :	Yes/No