

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.34402 of 2019
Date of Decision: November 26, 2019.

Ajaib Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Siddharth Gupta, Advocate, for the petitioner.

-.-

Tejinder Singh Dhindsa, J. (Oral)

As per the pleadings on record, petitioner was serving on the post of Manager in the Bahia Cooperative Marketing cum Processing Society Limited, Bhucho Mandi, District Bathinda. On 31.12.1999, the services of the petitioner were terminated.

The instant writ petition has been filed seeking a mandamus for directing the official respondents to permit the petitioner to join back on the post of Manager with all consequential reliefs in the nature of arrears of salary etc. with the interest @ 18% per annum.

Counsel representing the petitioner would vehemently contends that the petitioner was involved in two FIRs, i.e, FIR No.123 dated 27.12.1999 registered under Sections 408, 420, 467, 468, 471 IPC, at Police Station Nathana, District Bathinda and FIR No.37 dated 26.05.1998, registered at Police Station Vigilance Bureau, Ferozepur Range, Ferozepur, under the provisions of the Prevention of Corruption Act, 1988. It is urged that in the first FIR No.123 dated 27.12.1999, the petitioner was convicted but upon appeal having been preferred, the judgment of conviction has been

26.05.1998, the petitioner is stated to have been acquitted by the trial Court.

The precise contention raised by counsel for the petitioner is that since criminal proceedings have culminated in acquittal of the petitioner, he is now vested with the right to join back on the post which he was holding at the stage of imposition of major penalty of termination.

It is further contended that repeated representations made to the respondent-authorities to permit the petitioner to join on the post, have not been met with any positive result and resultantly, an alternative prayer is made to direct the respondents authorities to take decision on the representations of the petitioner.

Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the writ petition is wholly misconceived and deserves to be dismissed at the very threshold.

Placed on record at Annexure P-1 is the proceedings of the meeting dated 31.12.1999 of the Managing Committee of Bahia Cooperative Marketing Society Limited, Bhuchio Mandi, District Bathinda and in which agenda No.15 relates to the services of the petitioner and whereby it was unanimously approved that the services of the petitioner be terminated. Such proceedings would also indicate that the departmental proceedings had been initiated against the petitioner and the decision to terminate the services of the petitioner was taken after taking into consideration the findings returned by the Inquiry Officer. Even counsel, on a pointed query having been put to him during the course of arguments, submitted that termination of the petitioner was not based on account of conviction in the criminal matter. However, in the same breath, counsel

would submit that the enquiry which had been initiated against the petitioner was on the same set of allegations relating to which he has faced criminal trial.

It is by now well settled that the scope of a criminal trial and that of a departmental enquiry is totally different. The criminal trial would proceed in a manner where guilt of the accused has to be proved beyond any shadow of doubt. On the other hand, a departmental enquiry would proceed on the parameter of preponderance of probability. In such circumstance, even if the petitioner has earned acquittal in the criminal proceedings, the same would not automatically translate into setting aside of the termination order which is based on departmental proceedings and findings having been returned against the petitioner.

Even otherwise, the instant writ petition suffers from a basic lacuna. Even though the prayer in the instant writ petition is for a mandamus to be issued for permitting him to join back on the post of Manager but there is no challenge to the order of termination. Rather the order of termination has not been placed on record.

For the reasons recorded above, the prayer made in the instant writ petition cannot be accepted.

The writ petition is found to be bereft of merit.

Dismissed.

November 26, 2019
mohinder

(TEJINDER SINGH DHINDSA)
JUDGE

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