

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

**CWP-629-2021(O&M)
Date of Decision:12.01.2021**

Mohammad Iqbal

..... Petitioner

versus

The State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

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

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner who is working on the post of Junior Assistant under the Municipal Council, Malerkotla has filed the instant petition assailing the order dated 28.10.2020 (Annexure P-4) whereby he has been placed under suspension.

Counsel submits that the order of suspension has been passed on the basis that the petitioner having been involved in a FIR had remained in jail for the period 15.11.2018 to 28.11.2018 and since such factum had not been brought to the notice of the employer, departmental proceedings were contemplated.

The sole submission raised by counsel is that the communication at Annexure P-8 dated 18.12.2019 from the Accountant,

Municipal Council, Malerkotla to the Executive Officer, Municipal Council, Malerkotla would make it apparent that the employer was aware of the absence of the petitioner for the period in question. It is argued that under such circumstances the petitioner could not have been put to any peril/proceedings as regards not having informed the department with regard to his arrest. Yet another submission raised is that the petitioner is to superannuate on 31.01.2021 and under such peculiar circumstances the order of suspension be set aside.

Having heard counsel at length this Court is of the considered view that the instant petition lacks merit and deserves to be dismissed.

It is not in dispute that petitioner was involved in FIR No. 53 dated 14.03.2005, under Sections 353, 323, 147, 149 IPC, registered at Police Station Malerkotla. In a nutshell allegations were with regard to creating hurdles in executing the warrant of possession that had been issued in favour of a decree holder namely Abdul Hamid. Petitioner along with other co-accused faced trial but were acquitted vide judgment dated 02.07.2015 by the Judicial Magistrate 1st Class, Malerkotla. However, in an appeal preferred by the decree holder, learned Additional Sessions Judge, Sangrur set aside the judgment of acquittal and vide judgment dated 15.11.2018 held the petitioner as also other co-accused guilty of offence under Sections 353, 323 read with Section 149 IPC and sentenced them to undergo rigorous imprisonment for a period of one year under Section 353 IPC and to pay a fine of Rs. 5000/- and rigorous imprisonment for one month in default of payment of fine.

It would be apposite to take note that at the time of registration

of FIR petitioner was arrested and remained in custody for the period 15.11.2018 to 28.11.2018.

During the course of arguments it has been conceded that such information as regards arrest had not been furnished by the petitioner to the employer.

It is against such brief backdrop that the order of suspension dated 28.10.2020 at Annexure P-4 has been passed contemplating the initiation of departmental proceedings as the conduct of the petitioner prima facie amounted to a misconduct.

Pleadings on record would further show that on 18.12.2020 vide Annexure P-6 articles of charge have been formulated and a formal chargesheet has been served upon the petitioner. Petitioner has also responded to the chargesheet and the stage is now for consideration of the reply furnished by the petitioner.

Under such circumstances no infirmity is found in the action of the respondent-authorities in having placed the petitioner under suspension vide impugned order dated 28.10.2020 (Annexure P-4).

No basis for interference is warranted.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

12.01. 2021
sunita

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