

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

**CWP No.9101 of 2021
DATE OF DECISION : 28.04.2021**

Paramjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Deepak Goyal, Advocate
for the petitioner.

Ms. Akshita Chauhan, D.A.G., Punjab.

(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner herein, an ex-patwari, is before this court, inter alia, seeking to quash an order dated 26.09.2011 passed by the Deputy Commissioner, Sangrur, whereby he was dismissed from service. A belated appeal filed by him sometime in year 2019 before the Commissioner, Patiala Range, was also dismissed vide impugned appellate order dated 30.07.2020.
2. Brief factual matrix first, shorn of unnecessary details. Petitioner was appointed as Patwari in the Punjab Revenue Department on 21.08.1989. After rendering 22 years of service, he was dismissed on 26.09.2011 owing to his conviction by the trial Court in criminal proceedings arising out of FIR No.49 dated 12.06.2005 registered under Sections 465/467/468/474/120-B and 218 of IPC at Police Station Amargarh, District Sangrur. The allegations against the petitioner were that one Gurjant Singh, in criminal conspiracy with the petitioner, working as Halqa Patwari at the relevant time, in collusion with one Gurdial Singh, got prepared a forged jamabandi and khasra girdawri, wherein Gurjant Singh was shown to be in cultivation of agricultural land measuring 36 bighas 04 biswas. Based on the said forged documents, a fraud was committed with a bank to illegally obtain a loan. However, subsequently the trial court conviction was set aside as petitioner was acquitted by the Sessions Court vide judgment

dated 11.03.2014. Notwithstanding, the impugned dismissal order dated 26.09.2011 passed on the basis of conviction by the trial Court was not recalled/revoked. Petitioner pleaded case is that he had though approached the Deputy Commissioner after his acquittal but yet nothing was done by the Deputy Commissioner. He then filed an appeal before the Commissioner, and upon dismissal thereof, the instant petition.

3. Learned counsel for the petitioner argues that only on the ground of not being granted proper opportunity of hearing and/or issuing any prior notice and/or conducting any inquiry proceedings or even issuing any charge sheet prior to the dismissal from service, the impugned orders passed by deputy commissioner as well as commissioner are liable to be set aside.

4. Learned counsel further strenuously contends that the impugned dismissal order dated 26.09.2011 has been passed in gross violation of Punjab Civil Services (Punishment and Appeals) Rules. He further argues that the very basis of his dismissal in year 2011 was a conviction by the trial Court, which was concededly set aside in an appeal filed by the petitioner before the Sessions Court. Upon his acquittal by the Sessions Court's judgment, which has attained finality, the petitioner ought to have been re-inducted in service by recalling the impugned dismissal order of the Deputy Commissioner.

5. I have heard the learned counsel for the petitioner and having gone through the impugned orders, I do not find any grounds to interfere in the extra-ordinary writ jurisdiction of this Court. The reasons are more than one. In fact, impugned appellate order dated 30.07.2020, which in itself is self-speaking and needs no further elaboration, relevant extract whereof is reproduced herein below for ready reference :-

“Five criminal cases were registered against appellant out of which appellant stands acquitted in three cases but in the following two cases, appellant is still convicted :-

FIR No.150 dated 24.10.2007 under Section 420 was registered at Police Station Dhuri. In this case, Sh. Paramjit Singh, Ex Patwari did not enter the details of Bank loan on Fard of Village Isrda whereas in the Jamabandi of revenue record land was mortgaged with PADB Bank Dhuri and Mutation was also sanctioned in this regard but aforesaid Patwari did not give the note of mortgage on Fard due to which the original owner Sher Singh S/o Dalip Singh and Surinder Kaur W/o Sher Singh had further sold this land. Apart from this, FIR No.153 dated 24.12.2003 under Sections 465, 467, 468, 471, 474 IPC was registered at Police Station Amargarh Tehsil Malerkota.

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In connection with the aforesaid, appellant was heard in person. During hearing, Sh. Krishan Gopal, Junior Assistant (Retd.) also came present along with the appellant. Appellant informed that both the aforesaid cases are pending before the Hon'ble Punjab and Haryana High Court and punishment in both cases are stayed by High Court. As such he may be reinstated in service till the decision of the court. Sh. Ranjit Singh (Nasak) appeared on behalf of the government and informed that whenever any employee is convicted by Civil Court in criminal cases then no separate inquiry is required nor the issuance of charge sheet is required nor the opportunity of giving personal hearing is required. As such the order passed by Deputy Commissioner, Sangrur is absolutely correct."

6. A bare perusal of the above makes it abundantly clear that concededly the petitioner was involved in five criminal cases. Even though he was acquitted in three cases, including the one which led to his dismissal, but his conviction in two cases is merely stayed. Both the appeals against the said two convictions are stated to be pending before this Court. Until the said appeals are allowed, the petitioner cannot, in the interim, be given any benefit of mere pendency of appeal.

7. Apart from the aforesaid, after his acquittal by the Sessions Court in criminal proceedings arising out of FIR No.49 dated 12.06.2005, there is nothing on record appended with the petition and/or otherwise pleaded therein to show as to when and how the petitioner approached the Office of the Deputy Commissioner for seeking recalling/revoking of his dismissal order. The so-called application vide which he claimed to have approached the Deputy Commissioner, neither bears any date nor even otherwise it is borne out as to which year did he approach the Deputy Commissioner. Similarly, even the appeal before the Commissioner, neither bears any date nor even otherwise anything is borne out from the record as to which year the same was filed.

8. In the premise, one can safely conclude that the petitioner had at one stage acquiesced to his *fait accompli* qua the dismissal order dated 26.09.2011. It seems that when later he was acquitted by the Sessions Court, in an attempt to create fresh cause of action, he just baldly claims of filing an application before the Deputy Commissioner, without there being any supporting proof. One does not know whether such an application was actually filed or not. Even the petition before this Court contains a very diffident assertion qua the same without there being any specific details.

9. As regards the appeal, ordinarily it has to be filed within a period of 45 days. However, the petitioner slumbered over the matter from the year 2014,

when admittedly he was acquitted. He seems to have filed appeal before the Commissioner sometime in the year 2019, though the exact month or date is not borne out since the appeal does not bear any date.

10. Accordingly, *de hors* merit, the claim of the petitioner, in any case, is hit with hopeless delay and laches. On that ground alone, no indulgence of this court is warranted.

11. Dismissed, both on merits and delay.

APRIL 28, 2021
Jiten/gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No