

215

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

**CWP-17032-2017
Date of decision: 15.09.2022**

PARKASH SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vaibhav Narang, Advocate and
Mr. Deevnash Khanna, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed seeking issuance of a writ in the nature of mandamus directing the respondents to forthwith reinstate the petitioner back in service.

Learned counsel for the petitioner herein would contend that the petitioner was appointed as Home Guard in the year 1988. An FIR No.0314 dated 16.08.2006 was registered against the petitioner and other co-accused under Sections 325, 323, 427, 148 and 149 IPC at Police Station Sadar, Fazilka. Petitioner faced trial and vide judgment dated 18.03.2011 was convicted and sentenced along with co-accused for a period of one year. The said order was challenged in appeal, which was dismissed by the Additional Sessions Judge, Ferozepur vide judgment dated 27.02.2013.

After the order of the appellate Court, the petitioner herein was dismissed from service with effect from 27.02.2013. Aggrieved against the said orders of conviction by the Courts below, petitioner filed CRR No.1063 of 2013 before this Court, and this Court vide order dated 07.05.2013, released the petitioner along with other co-accused on probation of good conduct under Section 4 (i) of the Probation of Offenders Act, 1958 for a period of two years on their furnishing probation bonds in the sum of Rs.10,000/- with one surety each in the like amount. He would submit that once the petitioner has been released on probation by this Court, there was no bar in taking him back in service and when he represented to the department to do so, despite several representations having been preferred, no action was taken and the petitioner was constrained to file the instant writ petition.

Pursuant to notice of motion having been issued on 06.12.2017, reply has been filed on behalf of respondent Nos.1 to 3, in which a categorical stand has been taken that the service of the petitioner was that of a Home Guard and he stood discharged on account of the proceedings under the FIR. At the present moment, the petition cannot be reinstated as he has attained the age of 58 years since his date of birth is 10.01.1963 and he would be overage. It is argued that apart from the fact that petitioner has now become overage, he was not entitled for reinstatement considering the fact that he stood convicted by the a criminal Court and in appeal also, his conviction order stood upheld.

I have heard learned counsel for the parties and have also perused the pleadings of the case.

I find that the simpliciter prayer that has been made in the instant matter is for reinstatement of the petitioner herein on account of the fact that the petitioner has now been released on probation. However, this plea would not be acceptable in the light of the fact that the petitioner has now already attained the age of superannuation.

Consequently, the instant writ petition is dismissed.

15.09.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No