

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

107

CWP-20632-2020 (O&M)

Date of decision : 25.07.2022

Avtar Singh

... Petitioner

Versus

Pepsu Road Transport Corporation Patiala through Managing Director and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Vishal Garg, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

CM-6494-CWP of 2022

This application is for replacing Annexures P-1 & P-6.

Heard. For the reasons stated in the application, the same is allowed and Annexures P-1 & P-6 are replaced and taken on record, subject to all just exceptions.

Main case

The petitioner has challenged the order dated 03.02.2011 (Annexure P-2) whereby he had been dismissed from service and the order dated 16.12.2019 (Annexure P-6) whereby the order of termination dated 03.02.2011 (Annexure P-2) has been affirmed and his representation has been rejected.

Learned counsel for the petitioner submits that the petitioner had earlier been dismissed from service on 03.02.2011 (Annexure P-2) as he was involved in a criminal case. The order of dismissal was challenged in appeal but the same was also dismissed vide letter dated 20.08.2015 (Annexure P-4).

The petitioner was convicted in the criminal case but upon appeal, he had been acquitted of all the charges by the order and judgment dated 04.10.2013 (Annexure P-3). This order of acquittal had attained finality. The petitioner challenged the order of his dismissal and the order dismissing his appeal by preferring CWP No.23651 of 2016 which was disposed of by order dated 09.09.2019 (Annexure P-5) setting aside the order of his dismissal and the respondents were directed to pass a fresh order. The disciplinary authority by order dated 16.12.2019 (Annexure P-6) considered the representation of the petitioner in terms of the directions of this Court and dismissed the same. The petitioner preferred first statutory appeal against the order dated 16.12.2019 to the appellate authority which was dismissed on 06.08.2020 (Annexure P-8) by holding that there is no provision to file second appeal.

Issue notice to the respondents.

At the asking of the Court, Mr. Rakesh Roy, Advocate for Mr. Abhilaksh Gaiind, Advocate (Standing counsel) accepts notice on behalf of the respondents.

Heard.

It is manifest that the appeal of the petitioner against the order dated 16.12.2019 (Annexure P-6) had been dismissed without appreciating the merits and on the ground which would not be sustainable. The disciplinary authority had passed the order dismissing the petitioner from service on 03.02.2011 (Annexure P-2) and the appeal thereagainst had been dismissed on 20.08.2015 (Annexure P-4). These orders have been challenged by the petitioner and this Court vide order dated 09.09.2019 (Annexure P-5) had set aside the same and directed the respondents to consider the representation of

the petitioner afresh. Therefore, it could not be said that the appeal which had been preferred by the petitioner against the order dated 16.12.2019 (Annexure P-6) would be the second appeal and barred. This appeal was against the order dated 16.12.2019(Annexure P-6) which had been passed after the directions of this Court and the petitioner is entitled to the fair consideration of his appeal on merits.

Consequently, the petition is allowed and the order dated 06.08.2020 (Annexure P-8) is set aside. The appellate authority is directed to consider and decide the appeal of the petitioner on merits and pass a speaking order in accordance with law after affording him an opportunity of hearing within a period of four months from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

July 25, 2022
sonia gugnani

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