

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

**CWP No.1411 of 2023
Date of decision : 24.01.2023**

Narinder Singh

....Petitioner

Versus

Shiromani Gurudwara Prabandhak Committee

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ritu Pathak, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

This writ petition has been filed under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for quashing of order dated 22nd of February, 2022 whereby service of the petitioner stands dismissed.

2. The petitioner was appointed as Sewadar Electrician on 5th of February, 2015 on regular basis with Gurudwara Chhehrata Sahib registered under Shiromani Gudwara Prabandhak Committee, which is a Statutory Body created under the Sikh Gurdwara Act, 1925 (Punjab Act No. 8 of 1925). An FIR No.218 dated 12th of September, 2017 was registered against the petitioner at PS Chhhrata, Amritsar for offences punishable under Section 354-A, 506, 376 IPC and Section 12 of the POCSO Act. As a result thereof the petitioner was transferred to Gurudwara Ber Sahib, Sultanpur Lodhi, Kapurthala.

The petitioner was chargesheeted vide office order dated 31st of July, 2018. Thereafter, on approval by Executive Committee, service of the petitioner stands terminated vide order dated 22nd of February, 2020 (Annexure P-7) declaring him to be incompetent for service in Gurdwara on account of registration of criminal case against him for assaulting minor girl and his continuous absence from duty. In the proceedings arising out of FIR, the petitioner stands acquitted vide order dated 24th of November, 2020 by ASJ, Amritsar as the prosecution failed to prove guilt of the petitioner beyond reasonable doubt. Petitioner thereafter served legal notice dated 12th of February, 2021 upon respondent to reinstate him on account of his acquittal.

3. Counsel for the petitioner submits that the petitioner was implicated in a false case. He cooperated in the inquiry and was present whenever called by the Inquiry Officer. It has been pleaded that the Committee has failed to produce any oral or documentary evidence to prove the allegations. Neither order of suspension nor inquiry report has been communicated to the petitioner. Even the prosecution failed to prove the allegations levelled in the FIR and the petitioner stands acquitted by the Trial Court. Counsel further asserts that the impugned order dated 22nd of February, 2020 terminating the services of the petitioner, has been passed without holding fair and impartial inquiry. The same being stigmatic and contrary to the

principle of natural justice, needs to be set aside and the petitioner be reinstated to his original post as Sewadar Electrician.

4. I have heard counsel for the petitioner and have gone through records of the case.

5. Before going into the merits of the case, it will be apposite to peruse Service Rules framed by Shiromani Gurdwara Prabandhak Committee prescribing service conditions of its employees. Rules 4 & 5 thereof provide for dismissal and termination of service, which read as under :-

“Rule 4: Dismissal :

(a) The employee can be dismissed in accordance with the below mentioned rule by the appointing authority, but appeal against the dismissal by the President shall lie to the Executive committee within 30 days from the date of dismissal.

(b) Any employee under control of Management of any Department of Gurdwara under Shrimonai Gurdwara Prabandhak Committee may prefer an appeal against any punishment of suspension, dismissal, final, warning etc. within 30 days from the date of issuance of the order :

1. Any employee of the Shiromani Committee can dismissed or degraded for his bad character, dishonesty, drinking or becoming a “Patit” but before he is dismissed or degraded, the allegations in the form of written charge sheet shall be supplied to him along with the statement of allegations, on the basis of which the charges are leveled against him. Representation against these charges shall be received from the employee within reasonable time and in case he denies these charges or prays for holding an enquiry or the Executive Committee deems it fit, these charges shall be got inquired into in the presence of the employee and for each item of the charge sheet, which has not been admitted,

evidence shall be recorded in his presence and the employee shall be cross-examination these witnesses. In case an employee wishes to produce his defence, the same shall be entertained, but in case if the inquiring committee feels that certain evidence is not necessary, it shall not be permitted to be produced for the reasons to be recorded in writing. Action shall be taken against the employees only when the charge is established. In view of temporary or probationer employee the above mentioned procedure is not required to be followed. The committee can removed him at any time.

a. In case the employees wish to produce any record or document in their defence, he shall be permitted to do so and if he shall be permitted to inspect the record free of cost.

b. Every employee, who has been dismissed or degraded or removed shall be supplied with the copies of the report of inquiry committee and also final decision of the Executive committee free of cost.

4(a) The record pertaining to the dismissal or degradation an Employee shall not be destroyed for three years; rather it shall be kept in safe custody.

(b) If any employee is reinstated on exoneration after the suspension he shall be entitled to the arrears of salary of the suspension period.

Rule 5- Termination

If the Shiromani Committee at any time terminate the service of any permanent employee then the Committee shall be liable to give one month notice or one month salary in lieu thereof. Similarly, if any employee wants to resign he would be required to give a month's notice in advance or deposit one month's salary with allowances.”

6. Petitioner was granted benefit of doubt. The question w.r.t. effect of such acquittal on departmental proceedings came for

consideration before Apex Court in **State of Rajasthan and others vs. Phool Singh, 2022(4) SCT 138**, wherein Apex Court held that :-

“8. There should be no ambiguity in law on this subject. A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of “preponderance of probabilities”, in a criminal court the prosecution has to prove its case “beyond reasonable doubt”. In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.”

7. Admittedly, the Gurdwara Committee is vested with the power of dismissal or degradation of its employee for his bad character, dishonesty, drinking or becoming a “Patit”. As per the Rules governing the termination of services, the Committee served chargesheet upon the petitioner. He was asked to give clarification. Petitioner submitted response thereto. Inquiry was held by the Executive Committee as per the rules and the charges levelled against the petitioner were inquired into in presence of petitioner. Thus, this Court is of the considered opinion that the Committee well within its right has passed the impugned order dated 22nd of February, 2022. Consequently, finding no merit in the present writ petition the same is

ordered to be dismissed.

January 24, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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