

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5971-2016
Date of Decision:-**31.07.2023**

JARNAIL SINGH

... Petitioner

Versus

STATE OF PUNJAB & ORS

... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

1. The present petition has been filed by the petitioner against the order dated 5.7.2016 whereby the application filed by the petitioner for execution of decree dated 16.12.2013 passed by the Court of Additional District Judge, Ferozepur has been dismissed, by the Executing Court of Additional Civil Judge (Senior Division), Ferozepur.
2. The brief facts of the case are that the petitioner was a regular government employee and promoted as Senior Assistant (Accounts). FIR was registered against the petitioner and he was convicted and sentenced to life imprisonment under Section 302 IPC by the Court of

Additional Sessions Judge, Ferozepur on 17/19.12.2008. The appeal filed by the petitioner is pending in this Court. On account of his conviction in a criminal case, the petitioner was suspended by the Government vide order dated 12.1.2009 and thereafter dismissed from service on 28.2.2009. The petitioner challenged both the said orders by way of civil suit but the same was dismissed by the learned trial Court vide judgment and decree dated 6.1.2012. However, the appeal filed by the petitioner was allowed on 16.12.2013 and the judgment of learned trial Court dated 6.1.2012, and impugned orders dated 12.1.2009 and 28.2.2009 were set aside with liberty to the competent authority to pass appropriate orders considering the fact of conviction. RSA-2493-2014 filed by the State Government was dismissed on 1.9.2014. The petitioner filed application for execution of the judgment and decree dated 16.12.2013 passed by the Court of Additional District Judge, Ferozepur but the same was dismissed by the Executing Court vide order dated 5.7.2016.

3. Being aggrieved, the present petition has been filed by the petitioner.
4. I have heard the counsel for the parties.
5. The counsel for the petitioner submits that order of suspension dated 12.1.2009 and order of dismissal were set aside by the Court of Additional District Judge, Ferozepur vide judgment dated 16.12.2013 and the appeal filed against the said judgment by the State Government was dismissed. As the order of suspension and order of dismissal were quashed, the petitioner was entitled to be reinstated

along with all the consequential benefits. The counsel for the petitioner further submits that the Executing Court while taking into consideration the subsequent events i.e. fresh order of dismissal dated 4.6.2015 passed by the Government, dismissed the execution application in an illegal manner. The counsel for the petitioner further submits that the aforesaid order dated 4.6.2015 has been separately challenged by the petitioner by way of civil suit and the same is still pending for its disposal. The counsel for the petitioner further submits that even the fresh order of dismissal having retrospective effect is not sustainable in law. In this context the counsel for the petitioner placed reliance upon the decision of Division Bench of this Court in **Municipal Committee Dina Nagar vs. The Commissioner Jullundur Division and Others 1997 SLWR(P&H) 313**. So prayer is made that the present petition be allowed along with execution application and the State be directed to reinstate the petitioner with all the consequential benefits in the light of the judgment dated 16.12.2013 passed by the Additional District Judge, Ferozepur.

6. On the other hand the State counsel submitted that in compliance of the judgment dated 16.12.2013 passed by the 1st Appellate Court, the competent authority passed fresh order dated 4.6.2015, whereby the petitioner has been dismissed from service with effect from 28.2.2009 and the said order has not been set aside till date and in light of the said order, the executing Court rightly dismissed the execution application.

7. I have considered the submissions made by counsel for the parties.
8. Admittedly the petitioner was a Government servant and was convicted and sentenced to life imprisonment under Section 302 IPC by the trial Court vide judgment / order dated 17/19.12.2008 and the said judgment has not been set aside till date and the appeal filed by the petitioner is pending in this Court.
9. On the basis of the conviction of the petitioner in aforesaid criminal case firstly the petitioner was suspended on 12.1.2009 and thereafter he was dismissed from service w.e.f. 28.2.2009. The petitioner challenged both the said orders in a civil suit which was dismissed but in appeal both the orders were set aside with liberty to the competent authority to pass fresh orders while taking into consideration the conviction of the petitioner. In compliance of the order passed by the Appellate Court, the competent authority considered the matter afresh and passed fresh order dated 4.6.2015 whereby the petitioner was dismissed from service w.e.f. 28.2.2009.
10. Once a government servant is convicted on a criminal charge of murder, his dismissal from service is an automatic consequence of conviction. It is not desirable to retain such a person anymore in service. In the recent past the Hon'ble Apex Court in **State of Rajasthan vs. Phool Singh** in **Civil Appeal No.5930 of 2022** decided on **2.9.2022**, has held that mere acquittal in a criminal case does not entitle an employee to reinstatement in service. Admittedly in the instant case, the petitioner has not been acquitted by any Court till date

and his conviction is still subsisting. So the executing Court rightly dismissed the execution application.

11. Consequently the present petition is hereby dismissed being devoid of merits.

31.07.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No