

In the High Court of Punjab and Haryana, at Chandigarh**Civil Writ Petition No. 7209 of 2023****Date of Decision: 28.04.2023**

Harvinder Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. H.S.Dhindsa, Advocate
for the petitioner(s).

Mr. Vishnav Gandhi, Deputy Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The petitioner while seeking a writ of certiorari prays for quashing of the order dated 20.03.2023 whereby he has been dismissed from service by invoking Rule 13(1) of the Punjab Civil Services (Punishment and Appeals) Rules, 1970.

2. The petitioner has been dismissed from service solely on the ground of conviction in FIR No. 158 dated 31.08.2001, registered under Section 279 and 304-A IPC which has been upheld in appeal, though, the writ petition is pending. He was appointed as a Driver in the Punjab Roadways on 07.07.1997. The bus driven by the petitioner had met with an accident resulting in the death of a person.

3. The petitioner would be 58 years of age on 30.04.2023. He has been dismissed from service after his unblemished career of nearly 25 years.

antecedents of the petitioner during his entire service career spanning 25 years. Though, a Division Bench in *Rishi Dev vs. State of Haryana and others, 2006(2) SLR 295* held that a convicted driver is not entitled to reinstatement, however, in *Jarnail Singh vs. State of Punjab and others (Civil Writ Petition No.2914 of 2009, decided on 29.08.2011)*, the Court formed an opinion that the conviction of a driver for the offence punishable under Section 279 and 304-A IPC does not involve moral turpitude.

4. In *Gurmukh Singh v. State of Punjab and Another (Civil Writ Petition No. 16543 of 2014, decided on 13.03.2023)*, this Court, after considering the case law on the subject, has observed as under.

“7. Road accidents are, often, the result of an error of judgment or mechanical failures. They can also occur on account of fault of the other vehicle. In such cases, it would not be justified to hold that the driver is guilty of an offence involving the moral turpitude, however; at the same time, the court is required to keep in consideration the fact that the driver, if reinstated in service, will again drive the heavy duty vehicle which can endanger public safety.

8. Examining and harmonizing these conflicting interests, a learned Single Judge in Jarnail Singh's case (*supra*), held that in such cases, the order of dismissal is required to be modified and converted into an order of compulsory/pre-mature retirement from service with entitlement retrial/pensionary benefits.

9. Keeping in view of the aforesaid judgments, this court

while respectfully agreeing with the aforesaid view, orders the modification of dismissal of the petitioner from service and its conversion into an order of compulsory/pre-mature retirement from service with entitlement to retrial benefits with effect from the date the dismissal order i.e. 05.05.2014.”

5. For the parity of reasons, the present writ petition is allowed. The order of dismissal of the petitioner from service is converted into an order of compulsory/premature retirement with entitlement of retiral benefits from the date of the order i.e. 20.03.2023.

(Anil Kshetarpal)
Judge

April 28, 2023
“DK”

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