

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

207

**2023:PHHC:099320
RSA-1191-2022(O&M)
Date of decision: 02.08.2023**

STATE OF HARYANA AND ANOTHER

..Appellants

Versus

MANI RAM

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Pannu, AAG, Haryana.

Mr. Rakesh Nagpal, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

1. The State of Haryana and its officials have filed this appeal to assail the concurrent findings of fact arrived at by the Courts below.

2. Late Sh. Mani Ram, the original plaintiff has already died. He was appointed as a driver in the Haryana Roadways on 22.03.1998. The bus driven by the plaintiff was involved in an automobile accident on 22.09.2009. In a criminal trial, he was convicted, however, released on probation by the trial Court. The first informant filed the appeal in which he was convicted and sentenced for a period of 1 year under Section 279, 304-A of the Indian Penal Code, 1860. The revision petition filed by late Sh. Mani Ram is stated to be pending. On 13.02.2018, late Sh. Mani Ram was removed from services with effect from the date of his conviction. The competent authority has passed the said order while referring to his conviction and some instructions and Rule 16 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 (hereinafter referred to as '2016 Rules').

3. The civil suit filed by late Sh. Mani Ram was decreed on 19.08.2019, which in appeal has been affirmed by the First Appellate Court.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with requisitioned record.

5. The learned counsel representing the appellant while relying upon the judgment in *State of Haryana Vs. Balwant Singh, AIR 2003 (SC) 1253* contends that on conviction under Section 304-A IPC by the Criminal Court, the authority is competent to remove the employee from service without any further inquiry. He further submits that both the Courts have erred in decreeing the suit.

6. On the other hand, the learned counsel representing the legal representatives of late Sh. Mani Ram rely upon a detailed judgment passed by the Division Bench in *State of Haryana and another Vs. Ram Chander, 2013 (2) SCT 95*, to contend that the termination of service on conviction in a criminal case is not automatic. Before any order is passed, the competent authority is required to analyze the grounds which led to the conviction of the employee.

7. This Court has considered the submissions.

8. The judgment relied upon by the learned counsel representing the appellant in *Balwant Singh's case (supra)* is in the context of double jeopardy. In that case, it was submitted before the Supreme Court that on the basis of the award of Motor Accident Claims Tribunal, punishing the bus driver with reduction of his original time of service and then removal from service on conviction, is not appropriate. The Supreme Court held that such order does not fall within the mischief of double jeopardy.

RSA-1191-2022(O&M)

9. In fact, the competent authority has referred to Rule 16, which is of 2016 Rules, which is not applicable. Article 311 of the Constitution of India provides that if the competent authority comes to a conclusion that the conduct of the employee, which led to his conviction involves moral turpitude then he can be removed.
10. This is exactly what has been held by the Division Bench in **Ram Chander's case (supra)**.
11. From reading of the order passed by the competent authority on 13.02.2018, it is evident that the authority has not even referred to the conduct of late Sh. Mani Ram, which may have led to his conviction.
12. Keeping in view the aforesaid facts, findings no merits, the appeal is dismissed.
13. All the pending miscellaneous applications, if any, are also disposed of.

August 02nd, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

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