

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

1. CWP-13457-2017

Date of decision: 10.05.2023

MANJEET SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

2023:PHHC:067550

2. CWP-29154-2017

CHANCHAL SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.S. Panwar, Advocate
for the petitioner.

Mr. R.K. Kapoor, Addl. A.G. Punjab.

ANIL KSHETARPAL, J(Oral)

1. These two connected writ petitions assail the correctness of a common order passed on 30.09.2014 by the Superintendent, Headquarter Jail, Ferozepur. The petitioners have been dismissed from service without holding inquiry under the Punjab Jail Department State Service (Class III Executive) Rules, 1963 (hereinafter referred to as the '1963 Rules') read with proviso b to Article 311(2) of the Constitution of India.

2. In order to comprehend the controversy involved in the present case, some relevant facts, in brief, are required to be noticed, which are as follows:-

The petitioners were at the relevant time working as warders in Central Jail, Ferozepur. They were allegedly caught with 25 gram heroin and a bottle of whiskey. An FIR was registered against the petitioners under the

provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 and Punjab Excise Act, 1914. They were arrested on 16.09.2014 and dismissed from service on 30.09.2014. In the criminal trial while giving benefit of doubt, the petitioners were acquitted on 15.02.2018 under the NDPS Act, 1985 and Punjab Excise Act, 1914. The service appeal filed by the petitioner was dismissed on 16.08.2017. The issue that arises before this Court for adjudication is “whether the disciplinary authority recorded in writing its satisfaction that holding such an inquiry was not practicable before passing the impugned order?” The case was taken up on 09.05.2023 and the following order was passed:-

“On reading of the order dated 30.09.2014, which is subject matter of challenge in both the writ petitions, it is evident that the petitioners have been dismissed from the service in exercise of powers under proviso to Article 311(2) of the Constitution of India.

The learned counsel representing the State does not dispute that the petitioners, though, tried in a criminal case but acquitted.

In such circumstances, the learned State counsel is required to justify the reasons for not holding an inquiry before dismissing the petitioners from service.

Let the relevant record, which led to a passing of order dated 30.09.2014, be produced for perusal of the court.

Adjourned to 10.05.2023.

To be listed in the urgent list.

A photocopy of this order be placed on the file of the other connected case.”

3. The learned counsel representing the State of Punjab after examining the record admits that no separate reason has been recorded before arriving at a conclusion not to hold an inquiry. On reading of order dated 30.09.2014, it is evident that except borrowing the language of Article 311(2), the Superintendent, Headquarter Jail, Ferozepur, recorded no reason whatsoever as to how it is not reasonably practicable to hold an inquiry.

4. By now, it is well settled rule that the disciplinary authority is required to record sufficient reasons before coming to such a conclusion. These reasons, if any, recorded, are amenable to judicial review of the Courts. In absence thereof, such orders are liable to be quashed in exercise of jurisdiction of judicial review.

5. The learned counsel representing the State of Punjab attempted to calm the situation by submitting that the petitioners are allegedly guilty of deplorable conduct. But the allegations must be substantiated with evidence.

6. Keeping in view the aforesaid facts and discussion, the order passed on 30.09.2014, which has been upheld in the appeal, is set aside while directing the disciplinary authority to hold a fresh departmental inquiry. The matter is quite old, hence, the disciplinary authority is directed to ensure conclusion of the disciplinary proceedings within a period of six months from today, positively.

7. Disposed of.

8. The petitioners through their learned counsel are directed to appear before the disciplinary authority on 25.05.2023.

9. In the meantime, the petitioners will not be entitled to claim reinstatement or any financial benefits because the order has been set aside only on a technical objection and not on substantive grounds

10. All the pending miscellaneous applications, if any, are also disposed of.

May 10th, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*