

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 207

Civil Writ Petition No.22074 of 2016
Date of Decision: August 16, 2023

Surat Singh

..... PETITIONER(S)

VERSUS

State of Haryana and others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Ajay Shekhawat, Advocate for the petitioner.

Mr. Sanjeev Kaushik, Addl. AG, Haryana.

Mr. Amit Rao, Advocate for respondents No.2 and 3.

. . .

Tribhuvan Dahiya, J. (Oral)

This writ petition has been filed seeking a writ of *certiorari* quashing the order dated 10.07.2009 (Annexure P-8) whereby the petitioner has been dismissed from service without giving any opportunity of hearing. Further, a writ of *mandamus* has been sought directing the respondents to pass a fresh order in accordance with law compulsorily retiring the petitioner from service in view of his thirty five years of unblemished service in the Institute, and release pensionary benefits thereof.

2. Undisputed facts on record are, the petitioner was convicted for offences under Sections 307, 34 IPC by the Sessions Court, vide judgment and order dated 24.09.1992, and sentence of five years rigorous imprisonment was awarded to him. Criminal appeal against the conviction was dismissed by this Court vide judgment dated 01.07.2005; however, the sentence of imprisonment was reduced to the extent already undergone by

the petitioner. SLP (Criminal) No.4066 of 2005 filed in the Supreme Court against the same was dismissed as withdrawn vide order dated 05.09.2005. The petitioner again approached this Court by filing Criminal Miscellaneous No.62527-M of 2005 with a prayer that his conviction under Section 307 IPC be altered to the one under Sections 323, 324 and 325 IPC. The same was also dismissed by this Court vide order dated 12.12.2005. Thereafter, a curative petition filed in the Supreme Court with a prayer that the petitioner should be retained in service, was also dismissed on 06.08.2008. In this background, the impugned order of dismissal, dated 10.07.2009, has been passed by the respondent authorities.

3. Learned counsel for the petitioner by referring to a judgment of this Court passed in *Satpal v. State of Haryana and others*, SCC 2016 OnLine P&H 19565, contends that while passing the impugned order of dismissal, the authorities have not considered gravity of the charge which entitled the petitioner to be compulsorily retired instead of being dismissed from service. The punishment awarded is excessive and unfair, keeping in view thirty five years of service rendered by the petitioner.

4. Learned counsel for the respondents, on the other hand, have pointed out that the order impugned has been passed on account of the petitioner's conduct leading to his conviction. Therefore, no show cause notice was required to be afforded to him. Besides, conviction has been upheld up to the Supreme Court, and even a curative petition seeking retention in service stands dismissed. The authorities had no option but to pass the order of dismissal.

5. The submissions made by learned counsel for the parties have been considered.

6. As it is apparent on record, the impugned order has been passed on account of the petitioner’s conduct leading to his conviction in a criminal case under Sections 307/34 IPC. Therefore, no notice or departmental inquiry was required to be conducted before passing the same. At the same time, the offence for which the petitioner has been convicted is a heinous offence under Section 307 IPC, and involves moral turpitude. The judgment in *Satpal* case (*supra*) has no application to the facts and circumstances of the case as the petitioner therein was convicted for offences under Section 323 read with Sections 148 and 149 IPC for a period of one year. Keeping in view the offences for which the petitioner has been convicted, as also the fact that a curative petition seeking retention in service already stands dismissed by the Supreme Court, there is no ground to interfere with the order of dismissal.

7. Petition stands dismissed.

(Tribhuvan Dahiya)
Judge

August 16, 2023
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<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>