

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH -1-

102+210

CWP-18991-2018 (O&M)
Date of Decision: 20.12.2023

BALWAN SINGH

... Petitioner

VERSUS

DAKSHIN HARYANA BIJLI VITRAN NIGAM AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Viren Nehra, Advocate for
Mr. Sunil Kumar Nehra, Advocate the petitioner.

Mr. Hitesh Pandit, Advocate and
Ms. Suman Rani, Advocate for the respondents.

SANDEEP MOUDGIL, J. (ORAL)

CM-13093-CWP-2018

Allowed as prayed for subject to all just exceptions.

The copy of FIR No.252 dated 28.08.2021 is ordered to be taken on record. Registry is directed to tag the same at appropriate place of the paper book and page mark the same.

MAIN CASE

By way of filing the instant petition, the petitioners has sought quashing of the impugned order dated 28.01.2014 (Annexure P-2) whereby the petitioner has been dismissed from service; and for quashing the order dated 04.08.2017 (Annexure P-4) vide which the representation of the petitioner for reinstatement in service has been rejected.

The concise facts of the present case are that the petitioner was posted as Assistant Lineman in the respondent department i.e. DHBVN at Fatehabad Circle. During his posting, he alongwith his colleagues raided a

house at the village where the theft of energy was being committed. Due to posting and duty at far flung places, the petitioner could not report the matter. Taking advantage of the same, consumer got recorded a case against the petitioner under Section 354 of IPC and Sections 8 and 10 of POCSO Act, 2012.

Eventually, the petitioner got convicted and sentenced to go imprisonment for a period of 10 years alongwith fine. Pursuant to the same, the petitioner was also dismissed from service as a result of departmental inquiry initiated against him. Subsequently, the petitioner approached the High Court for seeking stay on his conviction on the ground that he is the alone male member to look after his minor children, wife and old aged parents. Accordingly, the petitioner succeeded in getting stay on his conviction. Thereafter, he moved a representation to the respondent-Department seeking reinstatement in service owing to the fact that the High Court has granted stay on his conviction. However, the respondent-Department rejected the representation, which compelled the petitioner to knock at the doors of this High Court.

A short reply has been filed by the respondent department and it has been averred therein that the offence allegedly committed by the petitioner pricks sentiments of the society at large and the same falls within the definition of moral turpitude. It is further submitted that the appointing authority has the power to dismiss an employee without hold enquiry specially when the offence committed falls within the definition of moral turpitude. Hence, the dismissal of the petition has been prayed for.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

After hearing both the parties, it is evident that the petitioner is claiming reinstatement in service post his suspension of sentence by the High Court.

Evidently, the petitioner has been convicted and sentenced for the offences committed under Section 354 of the IPC and Sections 8 and 10 of the POCSO Act, 2012. Pursuant to his conviction, the respondent department dismissed the petitioner from service. Now the petitioner is on bail from the High Court after getting his sentence suspended.

This Court is of the firm opinion that merely suspension of sentence does not accrue any right in favour of the petitioner to seek reinstatement in service. Departmental proceedings are quire separate from judicial proceedings. Even in a case where the accused succeeds in getting acquittal, the same does not have any bearing on the departmental proceedings. There may be different reasons for the acquittal or conviction of an accused on judicial side, but at the same time the accused/official might have failed to convince the Departmental Authorities or lead sufficient evidence there, to seek exoneration. Moreover, the question involved that '*In the event of acquittal of the delinquent in a criminal case whether the departmental enquiry pending against him on the same set of facts would continue?,*' this principle stands adjudicated by various Apex Court dictums, one of them being '***Corporation of City of Nagpur Vs. Ramachander 1981(2) SLR 274 SC***' wherein it has been concluded as under :-

‘It has been observed by the Supreme Court that this is a matter which is to be decided by the department after considering the nature of finding given by the Criminal Court. Normally, where the accused is acquitted honorably and completely exonerated of the charges, it would not be expedient to continue a departmental enquiry on the same charges or grounds of Evidence, but the fact remains, however, that merely because the accused is acquitted, the power of the concerned authority to continue the departmental enquiry is not taken away nor its discretion in any way fettered.’

Hence, both the departmental proceedings as well as the judicial proceeding are quite different and a person cannot claim the accrual of a right for reinstatement even he gets acquittal; what to talk of a conviction.

The present petition is devoid of any merits and hence, the same is dismissed, at this stage.

20.12.2023
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(SANDEEP MOUDGIL)
JUDGE

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