

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

**RSA-2483 of 2018 (O&M)
Date of Order: 31.07.2023**

Pohu Lal

.Appellant

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Bikram Jit Singh Randhawa, Advocate
for the appellant.**

Mr. Sandeep Chopra, DAG, Punjab.

ANIL KSHETARPAL, J

1. The appellant before this court was the plaintiff in a suit for the grant of decree of declaration that the termination of his service is illegal, with a consequential relief of injunction.

2. It has come on record that the appellant was convicted for the offence committed under the Punjab Excise Act, 1914 by the Sub Divisional Judicial Magistrate vide order dated 05.02.210. The appellant filed an appeal against the judgment of conviction and sentence. He was released on probation. Thereafter, the appellant was dismissed from service vide order dated 09.07.2013. Though, the trial court decreed the suit, however, the learned First Appellate Court while relying upon Section 12 of the Probation of Offenders Act, 1958 held that the order by which the appellant was released on probation does not amount to his acquittal. The First Appellate Court has relied upon a detailed judgment passed by the Supreme Court in

Sushil Kumar Singhal vs. The Regional Manager, (2010) 8 SCC 573.

3. This Bench has heard the learned counsels representing the

parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the appellant contends that in **Rajbir vs. State of Haryana, 1985(Sup) SCC 272**, the Supreme court held that if a convict is released on a probation it would not affect his service.

5. This court has carefully read the aforesaid judgment. The Supreme Court was examining the criminal appeal against the order passed by the High Court affirming the conviction. The Court in paragraph 4, just noticed the contentions of the learned counsel. Ultimately, the court has upheld the conviction while directing the release of the appellant on probation of good conduct. With highest respect, the aforesaid judgment passed in **Rajbir's case (supra)** does not serve as a ratio decidendi in order to lay down that the order of release on probation would result in erasing the conviction of the convict.

6. On the other hand, in Sushil Kumar's case(supra), the Supreme Court has held that the employee cannot claim a right to continue in service merely on the ground that he has been given benefit of probation under the Probation of Offenders Act. 1958

7. Keeping in view the aforesaid facts and discussions, no ground to interfere is made out.

8. Dismissed.

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

July 31, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO