

117

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23113-2023 (O&M)
Date of Decision: 12.10.2023

Mohinder Pal

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. R.K. Sharma, Advocate, for the petitioner.

Mr. Paramjit Batta, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has been convicted for the offences under section 307, 148 & 149 of IPC by the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar vide judgment dated 30.09.2015. The petitioner was sentenced to undergo rigorous imprisonment for a period of five years and also to pay fine. In appeal, only the sentence was suspended and the conviction still remains.
2. Article 311(2) of the Constitution of India provides as under:

“(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed: Provided further that this clause shall not apply

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry”

3. Keeping in view the aforesaid provisions, a show cause notice was issued to the petitioner by the disciplinary authority with regard to the proposal of passing of an order of punishment in terms of his conviction to which he submitted his reply, whereafter the competent authority found the petitioner's conduct to be that of involving moral turpitude and therefore, proceeded to dismiss the petitioner from service vide order dated 28.04.2016. No appeal was preferred by the petitioner against the said order, and now writ petition has been filed by the petitioner challenging the said order.
4. Learned counsel submits that the order was passed ante dated and actually the petitioner was communicated the order only after he had retired from service on 30.04.2016. It is submitted that after retirement, the order of dismissal could not have been passed, and the order is ante dated deliberately to deprive the petitioner of his retiral benefits.
5. Learned counsel further submits that the conviction under section 307, 148 and 149 IPC on account of the criminal case registered by the neighbours is an incident where the petitioner was not even present and it is a case of over-implication.

- 6. I have considered the submissions.
- 7. The provisions, as noticed above, reflect that if a person is convicted for a grave offence, the disciplinary authority needs not to conduct an inquiry and can proceed to pass an order of dismissal/removal from service. Considering that the petitioner has been convicted for an offence under section 307 IPC of attempting to murder, which falls within the ambit of committing moral turpitude, the decision taken by the authorities does not warrant any interference.
- 8. Writ Petition also suffers from gross laches as the same has been filed in the year 2023 relating to punishment order awarded to the petitioner in 2016.
- 9. Writ Petition stands *dismissed*.
- 10.All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

October 12, 2023
Mohit goyal

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |