

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5098 of 2011

Date of Decision:05.11.2012

Charanjit Kumar

.....petitioner

Versus

State of Punjab & ors.

.....respondents

CORAM: HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

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

Mr.Harsimran Singh Sethi, Additional Advocate General,
Punjab

TEJINDER SINGH DHINDSA J.(ORAL):

The petitioner, who was working as a cook under the Directorate of Health Services, Punjab, Chandigarh, has impugned in terms of filing of the instant writ petition, the order dated 31.01.2011(Annexure P-3), whereby the major penalty of dismissal from service has been imposed upon him. Challenge has also been laid to the subsequent order dated 23.02.2011(Annexure P-4) whereby in pursuance of the order of dismissal the petitioner has been directed to vacate the government quarter in his possession.

A perusal of the impugned order dated 31.01.2011 would reveal that the entire basis of imposition of the major penalty of dismissal is on account of noticing that the petitioner stood convicted in a criminal complaint No.30/2 dated 01.02.2005 by the Judicial Magistrate 1st Class, Jalandhar, under the provisions of Section 138 of the Negotiable Instruments Act. The petitioner had filed an appeal which has been

dismissed by the Additional Sessions Judge, Jalandhar, vide order dated 13.11.2007. Thereafter, the petitioner had filed Criminal Revision No. 260 of 2008 in this Court and in terms of the order dated 19.02.2008, while disposing of the aforementioned revision petition, the conviction of the petitioner had been upheld but the sentence awarded to him under Section 138 of the Negotiable Instruments Act had been reduced to the one already undergone.

Counsel for the parties have been heard at length. It is by now well settled that dismissal of an employee is not automatic upon conviction. It is obligatory for the respondent authorities to have considered the conduct of the petitioner which led to his conviction. A perusal of the impugned order would reveal that there is no consideration as regards the conduct of the petitioner that had finally led to his conviction under the provisions of the Negotiable Instruments Act.

Learned State counsel would fairly concede and make a submission that the respondent authorities would be open to follow the course whereby the matter would be reconsidered so as to pass a fresh order. Learned counsel for the petitioner has no objection to such course being followed.

Accordingly, the present petition is allowed to the extent that the impugned order dated 31.01.2011(Annexure P-3) is set aside. Liberty is granted to the respondent authorities to consider the matter afresh and pass an order in terms of taking into account the conduct of the petitioner that ultimately led to his conviction. Such fresh order, after re-consideration be passed within a period of three months from the date of receipt of certified copy of this order.

It is clarified that till such time the fresh orders are not passed, the petitioner shall be reinstated in service but shall not be paid

any arrears of salary. Consequently, relief if any as regards the continuity of service, arrears of salary etc. will depend upon the outcome of the fresh consideration.

Petition stands allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

05.11.2012

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