



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

210

CWP-5789-2019

Date of decision: 24.01.2025

Kulwinderjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. S.S. Behl, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing the order dated 13.07.2018, Annexure P-15, whereby the petitioner has been dismissed from service without following the procedure of law.

2. Learned counsel submits that the petitioner had joined as ETT Teacher on 12.10.1998 and on 24.10.2001, an FIR was registered, initially, under Sections 307, 498-A IPC at Police Station, Sadar Ludhiana, which later on was converted to Section 304-B, wherein he was convicted on 24.10.2013 and merely based on the same, his services were terminated on 13.07.2018 without applying mind as regards the conduct of the petitioner which lead to his conviction. The issue has already been decided in the case of **Pritam Singh vs. State of Punjab and others**, CWP-2487-2013, on 13.07.2017 by relying on the judgment of the Hon'ble Supreme Court in **Union of India and another vs. Tulsi Ram Patel and others**, 1985 (2) SLR 576, to which learned State counsel despite his best efforts, has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law, the relevant paras whereof read thus:-



“Counsel for the parties have been heard at length and the pleadings on record have been perused.

There is no dispute as regards the fact that the petitioner had rendered 32 years of service under the Punjab State Education Department and as a Art and Craft Teacher. There is nothing forthcoming in the written statement filed on behalf of the State that would adversely reflect on his work and conduct. The impugned order dated 11.01.2013 (Annexure P-3) would in itself disclose the basis of imposition of major penalty of dismissal i.e. conviction of the petitioner in criminal proceedings initiated in the light of FIR No.290 dated 29.09.2001, registered at Police Station Dhuri. Even though, charges had been framed against the petitioner as also co-accused under Sections 302, 323, 148 & 149 IPC, it stands un-controverted that the conviction of the petitioner was for offence under Section 323 IPC and he has been sentenced to undergo rigorous imprisonment for a period of one year. The judgment of conviction dated 04.09.2006, recorded by the trial Court and affirmed by this Court, has been placed on record and appended as Annexure P-2 along with writ petition. Perusal of such judgment would reveal that one solitary injury has been attributed to the present petitioner and on the person of Paramjit Singh and such injury had been declared to be simple in nature.

The impugned order of dismissal from service dated 11.01.2013 (Annexure P-3) does not carry any discussion that would reflect application of mind of the punishing authority as regards the conduct of the petitioner which had led to his conviction. Apparently the punishing authority has proceeded on the premise that every case of conviction would entail automatic dismissal. Such course of action and the decision to dismiss the service of the petitioner in the light of the impugned order cannot sustain in the eyes of the law.

The Hon'ble Supreme Court in the case of “Union of India and another vs. Tulsi Ram Patel and others, 1985(2) SLR 576” had clearly held that where a disciplinary authority becomes aware about a government servant having been convicted on a criminal charge, it would be imperative to consider whether the conduct of such employee, which led to his conviction was such as would warrant the imposition of a penalty and as to what, such penalty should be. It was further observed that for such purpose, the disciplinary authority would have to peruse the judgment of the Criminal Court and to consider all the facts and circumstances of the case prior to reaching a conclusion as to whether the conduct of the Government servant was such as would require his dismissal, removal from service, reduction of rank or any other appropriate penalty.

This Court would have no hesitation in holding that the dictum of the Supreme Court as laid down in the case of Tulsi Ram Patel's case (supra) has not been followed by the disciplinary authority.

The passing of the impugned order on the strength of Government of Punjab, circular dated 05.08.1998 is not well founded. The circular which has been appended at Annexure R-2



along with the written statement reveals that the same is towards compliance of the judgment of the Hon'ble Supreme Court in Nagoor Meera's case (supra). Even a reading of such judgment would reveal that it had been categorically held therein that the issue of relevance would be the conduct of the government servant which had led to his conviction on a criminal charge. In the case of Nagoor Meera, the respondent was working as Superintendent in the office of Regional Deputy Director, Collegiate Education, Madurai and had been convicted on the charge of corruption.

In the instant case, the allegations and occurrence that led to the registration of FIR No.290 dated 29.09.2009 at Police Station Dhuri against the petitioner and other co-accused were pertaining to an occurrence that took place in the village of the petitioner and had no relation whatsoever to his course of employment and discharge of duties or responsibilities. That apart, the conviction is for offence under Section 323 IPC that is of having caused a simple injury. There would be sufficient merit in the contention raised by counsel for the petitioner that offence under Section 323 IPC does not involve moral turpitude. Such aspect of the matter has been completely overlooked by the disciplinary authority while passing the impugned order dated 11.01.2013 (Annexure P-3).

For the reasons recorded above, the writ petition is allowed. Order dated 11.01.2013 at Annexure P-3 imposing the major penalty of dismissal from service upon the petitioner is set aside. The Secretary-cum-Director General, School Education Punjab, is directed to reconsider the matter and to pass an order afresh within a period of three months from the date of receipt of a certified copy of this order. It would be appreciated if prior to passing of the order afresh, an opportunity of personal hearing is granted to the petitioner.

It is further clarified that the grant of consequential relief upon setting aside of the dismissal of the petitioner in the nature of reinstatement etc. in favour of the petitioner would be subject to the outcome of the fresh order that has been directed to be passed.

Petition is allowed in the aforesaid terms.”

3. In view of the above, the present petition is disposed of in terms of **Pritam Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

24.01.2025
Hemant

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