

(2013) 08 P&H CK 0809

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 17357 of 2013 (O and M)

Joginder Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Aug. 12, 2013**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 148, 149, 307, 323, 325

Hon'ble Judges: Tejinder Singh Dhindsa, J**Bench:** Single Bench**Advocate:** Sandeep Arora, for the Appellant;**Final Decision:** Disposed Off

Judgement

Tejinder Singh Dhindsa, J.

The petitioner, who was working as a Driver with Punjab Roadways, Jalandhar stood convicted by the court of Additional Sessions Judge, Jalandhar vide judgment dated 23.12.2008 in F.I.R. No. 110 dated 3.10.2002 under Sections 307, 326, 325, 323, 148 and 149 I.P.C., Police Station Lambra. Solely upon conviction, the Director, State Transport, Punjab vide order dated 17.6.2010 (Annexure P-2) terminated the services of the petitioner. The petitioner preferred a statutory appeal before the Secretary to Govt. of Punjab, State Transport Department, Chandigarh but vide memo dated 12.6.2012 the same has been decided to be kept pending to await the decision of Criminal Appeal No. 128-SB of 2009 that the petitioner had preferred in this Court against the order of conviction. Learned counsel appearing for the petitioner would submit that mere conviction does not entail automatic termination from service. Counsel contends that it was obligatory for the respondent-authorities to have considered the judgment of conviction and to have applied its mind as to whether the offence in which the petitioner stood convicted involved any moral turpitude. Counsel further submits that the petitioner is on the verge of retirement and as such, there would be no legal impediment/bar in so far as the State Govt. taking a decision as regards the statutory appeal that he has preferred against the

order of termination.

2. I find merit in the submission raised by learned counsel. It was open for the respondent-department to have initiated departmental proceedings on the same charge/allegations which has led to the conviction of the petitioner in the criminal proceedings. The respondent-department chose not to do so. The order of termination of services merely noticed that the petitioner has been convicted by the court of Additional Sessions Judge, Jalandhar. The issue as regards the offence on which he stands convicted involving any moral turpitude, has not been gone into by the Director, State Transport Department, Punjab while passing the order dated 17.6.2010. Mere pendency of a criminal appeal preferred by the petitioner and the same pending adjudication before this Court will not be a bar in so far as consideration of the statutory appeal preferred by the petitioner, is concerned.

3. Accordingly, the present writ petition is disposed of with a direction to respondent no. 1 to consider the statutory appeal at Annexure P-4, strictly in accordance with law and to pass a speaking order thereupon, within a period of three months from the date of receipt of a certified copy of this order. Petition disposed of.