



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4573 of 2022
Date of Decision: 15.9.2025

Shiv Raj
.....Petitioner
Versus
Himachal Road Transport Corporation and Anr.
.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.
For the Petitioner: Mr. Sunil Mohan Goel, Senior Advocate with
Mr. Vipul Sharda, Advocate.
For the respondents: Mr. Vikas Rajput, Advocate.

Sandeep Sharma, J. *(Oral)*

Petitioner herein is aggrieved of order dated 15.11.2021 (Annexure P-13), whereby Review Petition having been filed by him against the order dated 22.8.2020, laying therein challenge to order dated 22.8.2020, passed by the Managing Director, Himachal Road Transport Corporation, thereby upholding order of removal of the petitioner from service vide letter dated 23.12.2019 (Annexure P-9), came to be dismissed.

2. Precisely, the facts of the case as emerge from the record are that petitioner herein, who is working as Driver in Himachal Road Transport Corporation, Hamirpur, was deployed with bus bearing registration No. HP67-1811, enroute Hamirpur-Amritsar on 22.3.2011. Unfortunately afore said bus met with an accident at Jalandhar-Pathankot bye-pass, as a result thereof, FIR no. 45 of 2011

dated 23.3.2011, was registered against the petitioner at Police-Station Jalandhar under Section 279 and 304 A of the Indian Penal Code. Police after completion of the investigation presented challan in the learned Judicial Magistrate First Class, Jalandhar, which on the basis of pleadings adduced on record by the prosecution held the petitioner accused guilty of his having committed offence punishable under Sections 279 and 304 A of IPC and sentenced him to undergo simple imprisonment of three months under Section 279 of the IPC and rigorous imprisonment for a period of two years and pay fine of 500/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days under Section 304-A of IPC . Though petitioner preferred appeal bearing No. 22 of 2016 before Additional District and Sessions Judge, Jalandhar, against judgment of conviction and order of sentence dated 29.1.2016 passed by the learned Judicial Magistrate First Class, but same was dismissed vide judgment dated 2.11.2016. After dismissal of the appeal, petitioner was taken into custody and he remained in Jail w.e.f. 2.11.2016 to 8.2.2017 i.e. period of three months and fourteen days.

3. Being aggrieved and dissatisfied with aforesaid judgment passed by the learned Additional District and Sessions Judge, accused preferred Criminal Revision No. 4313 of 2016 in the High Court of Punjab and Haryana at Chandigarh, whereby sentence imposed by the land trial court came to be reduced to the extent of period already

undergone by the petitioner, however, fact remains that judgment of conviction and order of sentence recorded by the court below under Sections 279 and 304-A IPC was not interfered with, as a result thereof, petitioner stood convicted.

4. Since petitioner failed to disclose factum with regard to his being imprisoned w.e.f. 2.11.2016 to 8.2.2017. Respondent-Corporation vide memorandum dated 13.12.2019 (Annexure P-7), served Show Cause Notice upon him to explain that why he be not removed from the service in pursuance to provision contained in Rule 19 of the CCS (CCS) Rules 1965 (in short "Rules"). Though petitioner filed detailed reply to the afore Show Cause Notice (Annexure P-8), but fact remains that vide order dated 23.12.2019 passed by the Divisional Manager, Himachal Road Transport Corporation Hamirpur, petitioner came to be removed from service in terms of Rule 19 of the Rules. In the afore background, petitioner has approached this Court in the instant proceedings, praying therein to set-aside aforesaid order.

5. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Sunil Mohal Goel, learned Senior counsel duly assisted by Mr. Vipul Sharda, Advocate, representing the petitioner is that bare perusal of Rule 19 of the Rules clearly reveals that before passing order, if any, thereby straightaway terminating /removing the delinquent official, authority

concerned is under obligation to record reason that why it is not practicable to hold inquiry in the manner provided in the Rules, however, in the instant case, authority concerned without recording reasons straightaway proceeded to remove the petitioner from service in terms of Rule 19, as a result thereof, petitioner, who has served the department for more than 28 years has suffered huge loss because on account of his termination/removal, he shall not receive any kind of pension/retiral benefits.

6. To the contrary, Mr. Vikas Rajput, learned counsel appearing for the respondents corporation, while justifying the impugned action of the respondents, specifically referred to Rule 19 of the Rules to state that afore provision of law empowers the authority to straightaway pass order of termination, if it is satisfied that penalty is imposed upon the Government servant on the ground of conduct which ultimately led to conviction on criminal charge. He submitted that since petitioner has been held guilty by the criminal court under Section 279 and 304 A of the Indian Penal Code and pursuant to same, petitioner has remained in custody for three months, there was otherwise no occasion, if any, for the respondents to record reasons for not holding inquiry under Rule 19.

7. Before ascertaining the correctness of rival submissions made by the learned counsel for the parties, it would be apt to take note of Rule 19 of the Rules, which read as under:

19. Special procedure in certain cases

Notwithstanding anything contained in rule 14 to rule 18-

- (i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or
- (ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
- (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules,

the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i):

Provided further that the Commission shall be consulted, where such consultation is necessary, [and the Government servant has been given an opportunity of representing against the advice of the Commission,] [Added by Notification No. G.S.R. 769(E), dated 31.10.2014] before any orders are made in any case under this rule.

8. Careful perusal of aforesaid provision reveals that notwithstanding anything contained in rule 14 to rule 18, disciplinary authority, if satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, may straightaway pass order of removal/termination of delinquent employee.

9. Though Learned counsel for the respondents attempted to argue that Rule 19 (i) provides that where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, authority concerned straightaway can proceed to pass order of removal/termination, but having perused Rule 19 in its entirety, this court is not persuaded to agree with Mr. Rajput. Rule 19 provides for special procedure in certain cases, (i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or (ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

10. No doubt, in the case at hand, petitioner on account of his having been held guilty under Section 279 and 304-A of the Indian Penal Code, was convicted and he also remained behind bars for more than three months but that could not be ground for the respondents to straightaway terminate/remove the petitioner from service, rather to ascertain the misconduct, if any, of the petitioner, it ought to have conducted disciplinary proceedings. Though Rule 19 (ii) enables the

Disciplinary Authority to not hold an inquiry, but for doing so, it is under obligation to record reasons that for such reasons, it is not practicable to hold an inquiry provided under rules.

11. Admittedly, in the case at hand, petitioner was convicted on account of his having committed offences punishable under Section 279 and 304 A of the Indian Penal Code, but this court cannot lose sight of the fact that petitioner was driving the bus of the respondents for more than 28 years and during the course of his employment, he met with an accident and as such, respondents before imposing penalty, if any, in terms of Rule 19, ought to have afforded opportunity to him to explain that how accident happened and for what reason, he should not be held guilty, however, in the instant case, respondents straightaway on the basis of conviction recorded by the criminal court proceeded to remove him in terms of rule 19, which itself provides for inquiry. Though in terms of Rule 19, inquiry can be dispensed with, but for that purpose authority concerned is required to record reasons for not holding the inquiry. However, in the case at hand, aforesaid procedure has been not followed. No reason whatsoever ever, came to be adduced on record at the behest of the authority reasonable for termination/removal that for such reasons it is not possible to hold inquiry.

12. At this juncture it is apt to take note of judgment passed by the Hon'ble Apex Court in **Pawan Kumar v. Union of India and**

Anr., (2023) 12 SCC 317, wherein it has been held that whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged or terminated axiomatically from the service just by a stroke of pen, rather is required to be afforded opportunity to explain his conduct. Relevant para of the afore judgment reads as under:

“13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What being noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.”

13. Reliance is also placed upon judgment dated 6.3.2023 passed by the coordinate Bench of this Court in **CWPOA No. 6429 of 2019**, titled as **Mohinder Singh v. Himachal Road Transport Corporation and Ors.**, relevant para of the judgment reads as under:

“17. Provisions contained in proviso (a) to Clause (2) of Article 211 of the Constitution of India and Rule 19(i) of CCS (CCA) Rules provide that on conviction an employee can be dismissed

or removed or reduced in rank, on the ground of conduct which led to conviction on criminal charge, without conducting any enquiry. But, it does not mean that every conviction shall be followed by removal of employee, as it does not mandate automatic removal on conviction. Employer having right to remove the employee from service, without enquiry, has to consider all relevant factors, like nature and gravity of offence, impact of conviction on service, suitability of employee in service after conviction, and competent authority is expected to exercise its power under these provisions after due caution and considerable application of mind and has to consider that the conduct of the employee was such as warrants imposition of penalty and, if so, what that penalty should be, as these provisions not only provide dismissal or removal from service but also in alternative, reduction in rank which definitely provides discretion to the competent authority to impose appropriate penalty, if any required, in the given facts and circumstances of the case.”

14. In the aforesaid judgment, coordinate Bench of this Court has held that though provisions contained in proviso (a) to Clause (2) of Article 211 of the Constitution of India and Rule 19(i) of CCS (CCA) Rules provide that on conviction an employee can be dismissed or removed or reduced in rank, on the ground of conduct which led to conviction on criminal charge, without conducting any enquiry, but it does not mean that every conviction shall be followed by removal of employee, as it does not mandate automatic removal on conviction, rather Employer having right to remove the employee from service, without enquiry, has to consider all relevant factors, like nature and gravity of offence, impact of conviction on service, suitability of

employee in service after conviction, and competent authority is expected to exercise its power under these provisions after due caution and considerable application of mind.

15. Interestingly, in the case at hand, disciplinary proceedings before invoking exercise power under Rule 19 initiated disciplinary proceedings under Sections 14 of the Rules, but same was not taken to its logical end, rather petitioner herein was asked to deposit Rs. 6000/-, which he deposited. Once disciplinary proceedings initiated under Rule 14 after receipt of Rs. 6000/- from the petitioner were dropped, there was otherwise no occasion, if any, for it to resort to proceedings under Rule 19 of the Rules.

16. Similarly, this Court finds that appellate authority, before whom petitioner filed appeal against order of removal, nowhere bothered to look into the grounds of appeal, rather it simply on the basis of order passed by the Disciplinary Authority, proceeded to dismiss the same. If the order passed on Review Petition filed by the petitioner, by the competent authority is perused, he also without ascertaining the correctness of grounds of review, proceeded to dismiss the appeal and as such, impugned orders deserve to be quashed and set-aside.

17. Consequently, in view of the detailed discussion made herein above as well as law taken into consideration, present petition is allowed and office orders dated 23.12.2019 and 15.11.2021

(Annexure P-9 & P-13) are quashed and set-aside and respondents are directed to reinstate the petitioner w.e.f. 23.12.2019 and thereafter, release retiral benefits/pension to the petitioner, if he is otherwise eligible.

18. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.

September 15, 2025

(manjit)

**(Sandeep Sharma),
Judge**