

(ਸਾਰੇ ਦੱਸੇ ਗਏ ਕੇਂਦਰੀ ਮੁਖ ਵਿਚਾਰਕ ਦੇ ਨਾਮ)
ਸਾਲ ਨੰ : 14/2001
ਵਾਰੋ:

1. ਸਾਰੇ ਦੱਸੇ ਗਏ ਅਤੇ ਪ੍ਰਕਾਰ - ਦਿੰਦੇ ਹੋਏ/ਜਨਨ ਲ ਮੈਨਜਰ, ਪੰ:ਰਾ: ਫਿ:ਸੇ।
2. ਸਾਰੇ ਮੁਖ ਦੱਸੇ ਗਏ, ਪੰ:ਰਾ: ਸਿ:ਬੇ/ਬੋ.ਸੋ. ਐਮ.ਬੋ. ਸਪੇਚ. ਹਾਈਕੋਰਨ।
3. ਬੋ.ਬੋ.(ਟੋ)ਟੁ ਚੈਅਰਮੈਨ, ਪੰ:ਰਾ: ਸਿ:ਸੇ, ਪਟਿਆਲਾ।
4. ਬੋ. ਜੋ. ਗੋ/ਰਾਹੀਂ ਤੇ ਸੁਰੱਖਿਆ, ਪੰ:ਰਾ: ਫਿ:ਤੇ, ਪਟਿਆਲਾ।
5. ਸਾਰੇ ਮੁਖ ਨੇਥਾ ਅੰਡਪਰ/ਮੁਖ ਆਈਕਾਰ, ਪੰ:ਰਾ: ਫਿ:ਹੈ।
6. ਮੁਖ ਕੰਟਰੋਲਰ ਵਿੱਤ, ਪੰ:ਰਾ: ਫਿ:ਸੇ, ਪਟਿਆਲਾ।
7. ਚੈਡ ਹਾਸਟ ਕੰਟਰੋਲਰ ਅਤੇ ਕੌਡਨਕੁਲ, ਪੰ:ਰਾ: ਜ਼ੇ. ਪਟਿਆਲਾ।
8. ਐਸ.ਬੋ(ਟੋ)ਟੁ ਮੈਰਜ ਪੰ:ਰਾ: ਜ਼ੇ: ਕੋ।
9. ਸਾਰੇ ਟਿੰਡੇ/ਟਿੰਜ: /ਭਾਟਿਕੋਣਕ, ਪੰ:ਰਾ: ਸਿ:ਗੇ।
10. ਮੁਖ ਖਰੋਦ ਅੰਡੇਸ਼ਰ-1 ਅਤੇ 2, ਪੰ:ਰਾ: ਸਿ:ਸੇ, ਪਟਿਆਲਾ।
11. ਮੁਖ ਤੇ ਵਿੱਤ ਮੈਨਜਰ, ਜੋ.ਬੋ.ਬੋ. ਪਾ. ਸਤਿਗੁਰ।

ਮੀਮੋ ਨੰ: 157556/157746 / ਇ. ਭੋ. ਪੀ. 110 ਮਿਤੀ: 26.6.2001

ਕਿਵੇਂ: Action to be taken in cases where Government employees are convicted on a criminal charge- Civil Appeal No. 2992/1995- Supreme Court of India-Deputy Director of Collegiate Education (Administration)(Madras) Appellant Vs. S. Nagoor Mehta, Respondent.

ਪੰਜਾਬ ਸਰਕਾਰ, ਪ੍ਰੋਨਨ ਅਤੇ ਪੱਧੰਧਕੀ ਬਧਾਰ ਵਿਭਾਗ (ਪ੍ਰੋਨਲ ਪਾਨਿਸ਼ੋਭ ਸਾਧਾ-2) ਚੰਡੀਗੜ੍ਹ ਦੇ ਗੁਪਤੇ ਪੱਤਰ ਨੰ: 3/23/98-1 ਪੋ. ਪੀ. 2/10394 ਮਿਤੀ 5.8.98 ਦੀ ਟਿੰਕ-ਟਿੰਕ - ਕਾਪੋ ਝੁਚਨਾ ਤੇ ਕਾਰਵਾਈ ਹੈ। ਜੋ ਜਾਂਦੀ ਹੈ।

ਪੰ:ਰਾ: ਫਿ:ਸੇ, ਨੇ ਪੰਜਾਬ ਸਰਕਾਰ ਦੇ ਟਿੰਕੋਂ ਪੱਤਰ ਦੇ ਦੱਸੇ ਗਏ ਦਿੱਤੀਆਂ ਹਦਾਇਤਾਂ ਨੂੰ ਗੋਲ ਕਿਵੇਂ ਟਿੰਕ-ਕਿੰਕ ਪਾਲਣਾ ਕਾਨਨਕ ਅਪਣਾ ਨਿਆ ਹੈ।

ਕੌਣ/ਉਪਕੌਣ ਅਨੁਸਾਰ

ਮੁਖ ਵਿਚਾਰ
(ਮਨਜ਼ੂਰ ਸਿੰਘ)

ਅਧੂਨ ਸੂਕੱਦਰ/ਪੀ.ਕੁ. ਆਰ,
ਵਾ: ਪਟਿਆਲਾ, ਪੰ:ਰਾ: ਸਿ:ਸੇ, ਪਟਿਆਲਾ।

ਫਿਲ ਨੰ: 157747/158469 / ਇ. ਭੋ. ਪੀ. 110 ਮਿਤੀ: 26.6.2001

ਟਿੰਕੋਂ ਦਾ ਉਤ੍ਤਰ ਹੈ ਕਿ ਦਿਮਾਗ ਦੀ ਤੱਤ ਸਹਿਲਕ ਸੁਚਨਾ ਤੇ ਕਾਰਵਾਈ

1. ਮੁਖ ਪਾਵਲ, ਸੋ.ਬੋ. ਐਮ.ਬੋ., ਚੰਡੀਗੜ੍ਹ।

ਚਨਦਾ ਹੈ 2

2. ਸੁਖਾਰ/ਸੋ. ਸੋ. ਗੋ. ਸੀ., ਚੰਡੀਗੜ੍ਹ।
3. ਮਾਰੇ ਪ੍ਰਿ ਮੁੱਖ ਲੇਖਾ ਅਨੱਸਰ/ਪ੍ਰਿਪ ਆਡਿਟ/ਉਪ ਵਿਤ ਸਲਾਹਕਾਰ ਸਮੇਤ ਰੇਪੜ
ਅਨੱਸਰ ਅਤੇ ਨਿਵਾਰ ਮਾਸਤ ਬਾਮਲ ਪੇਸ਼ੇਟ ਅਤੇ ਬਣਿੰਗ ਬਾਮਲ ਪੋਰਟ।
4. ਮਾਰੇ ਵਾਹਨਾਂ ਵਿਚ: /ਗੋਡੀ: ਫਿਲੀ: / ਰਾਹਾਂ ਜਾਇਗੇਟਾਂ ਅਤੇ ਖਰੋਦ ਜਾਨਾਰ।
5. ਮਾਰੇ ਗੋਡੀਆਂ ਲੇਖਾ ਅਨੱਸਰ/ਪ੍ਰਿਪ ਅਨੱਸਰ ਸੋ. ਗੋ. ਸੀ. ਅਤੇ
ਹਾਈਕੋਨ।
6. ਨਿਕ: ਇੰਜ: /ਇਲੈਕਟ੍ਰੋਕਲ ਸੂਨੀ ਅਨੱਟੇਰੇਟਰ ਦੀ ਚੰਡੀਗੜ੍ਹ।
7. ਹੈਂਜੋਵੇਟ ਆਡਿਟ ਅਨੱਸਰ, ਪਟਿਆਲਾ।
8. ਪ੍ਰਿਪ ਵਿਤ ਸਲਾਹਕਾਰ ਅਤੇ ਮੁੱਖ ਲੇਖਾ ਅਨੱਸਰ ਸਿਆਸ ਪੇਸ਼ੇਟ ਤਨਵਾ ਕਾਂਟ/ਸਿਪਾ।
9. ਵਿਤ ਸਲਾਹਕਾਰ ਅਤੇ ਮੁੱਖ ਲੇਖਾ ਅਨੱਸਰ ਸਿਆਸ ਪੇਸ਼ੇਟ ਤਨਵਾ ਕਾਂਟ।
10. ਜਾਇਗੈਟਾਂ ਉਲੋਗਿਕ ਸੰਘਰ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।
11. ਕੁਝ ਸਾਡੇ ਦੂਜੇ ਚੌਕੋਨ, ਸੋਡੀ: ਫਿਲੀ: ਸਾਰੇਗੇ ਦੂਜੇ ਗੋਬਰੰਗ ਸੱਤਰ, ਪੰ: ਰਾ: ਬਿ:ਬੇ।
12. ਆਇਨੋਲਾਂਗ/ਭੇਟ ਗੁੱਲਰ ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।
13. ਮਾਰੇ ਪ੍ਰਾਂਤ ਵਿਚ ਸਾਡੇ /ਉਪ ਸਰੱਤਰ/ਅਧੀਨ ਸਰੱਤਰ, ਪੰ: ਰਾ: ਬਿ:ਬੇ।
14. ਮਾਰੇ ਕਾਗਜਾਂ ਵਿਚ ਪ੍ਰਮੀ ਹੈਰ ਆਕਿਆ ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।

ਕੁਝ ਸਾਡੇ

ਗੁਰੂ ਨਾਨਕ ਮੁੱਕਤਰ/ਪੀ. ਪ੍ਰੋ. ਹੈ. ਆਰ,
ਵਾ: ਸਾਰੇਗੇ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।

ਪੰਥ ਅੰਦਰ ਨੰ: 158467/158468 /ਏ. ਕੌ. ਪੀ-110 ਮਿਤੀ: 26.6.2001
ਪੰਥ ਅੰਦਰ ਦਾ ਉਹਾਰਾ ਸਮੇਤ ਸਹਿਲਕਾ ਹੇਠ ਲਿਖਿਆ ਹੈ। ਮੁਹਾਦਾ ਤੇ ਕਾਰਵਾਈ
ਉਪੋਕਟ ਦਾ ਉਹਾਰਾ ਸਮੇਤ ਸਹਿਲਕਾ ਹੇਠ ਲਿਖਿਆ ਹੈ।

ਕੁਝ ਲੇਖਾ ਜਾਂਦਾ ਹੈ:-

1. ਗੁਰੂ ਨਾਨਕ ਅਨੱਸਰ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ ਦੂਜੇ ਉਹਨਾਂ ਦੇ ਗੈ:ਸ:ਪੰ: ਨੰ: 2932/
ਗੋਲ. ਸੀ-3(21) 189/98 ਮਿਤੀ 20.3.2001 ਦੇ ਸੰਘ ਵਿਚ।
2. ਕੁਝ ਸਹੱਜ/ਗੋਟੀਗੜ੍ਹ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ ਦੂਜੇ ਉਹਨਾਂ ਦੇ ਗੈ:ਸ:ਪੰ:
ਨੰ: 5539/ਹਸ਼ਮੂ:ਟੋ: ਗੋ-16/ 2001/2 ਮਿਤੀ 15.6.2001 ਦੇ ਸੰਘ ਵਿਚ।

ਕੁਝ ਸਾਡੇ

ਗੁਰੂ ਨਾਨਕ ਮੁੱਕਤਰ/ਪੀ. ਪ੍ਰੋ. ਹੈ. ਆਰ,
ਵਾ: ਸਾਰੇਗੇ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।

ਪੰਥ ਅੰਦਰ ਨੰ: 158469 /ਏ. ਕੌ. ਪੀ-110 ਮਿਤੀ: 26.6.2001
ਉਪੋਕਟ ਦਾ ਉਹਾਰਾ ਪਰਾਈਵੇਟ ਸਰੱਤਰ ਦੂਜੇ ਰੋਪੋ ਪਾਵਰ, ਪੰਜਾਬ ਸਰਕਾਰ,
ਕਾਲ ਪਾਵਲ ਗੋਡੀਆਂਟ ਚੰਡੀਗੜ੍ਹ ਦੀ ਬੁਰਨੀ ਹਿਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ।

ਕੁਝ ਸਾਡੇ

ਗੁਰੂ ਨਾਨਕ ਮੁੱਕਤਰ/ਪੀ. ਪ੍ਰੋ. ਹੈ. ਆਰ,
ਵਾ: ਸਾਰੇਗੇ, ਪੰ: ਰਾ: ਬਿ:ਬੇ, ਪਟਿਆਲਾ।

No. 3/23/98-1 PPII/10394

Government of Punjab
Department of Personnel and Administrative Reforms
(Personnel Policies Branch-II)

Dated, Chandigarh, the 5th August, 1998.

To

All the Heads of the Departments,
Commissioners of Divisions,
Deputy Commissioners, and
Sub-Divisional Magistrates in the
State of Punjab.

Sub: Action to be taken in cases where Government
employees are convicted i.e. on a criminal charge-
Civil Appeal No. 2992/1995-Supreme Court of
India-Deputy Director of Collegiate Education
(Administration) Madras Appellant Mr. S. Mehta
Respondent.

.....

Sir/Madam,

I am directed to refer to the subject noted
above and to say / that in the case cited, the Tamil Nadu High
Court suspended the sentence imposed upon the respondent and
released him on bail. The Appellant i.e. the Deputy Director
of Collegiate Education issued a notice to the Respondent
calling upon him to show cause why should he not be dismissed
from service in view of his conviction by the criminal court.
The show cause notice expressly recited that in as much as
the High Court has only suspended the sentence, the convic-
tion of the respondent was still in force. After receiving
the show cause Notice, the respondent filed original Appli-
cation No. 6851 of 1993 before the Tamil Nadu Administrative
Tribunal. The submission of the respondent was upheld by the

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-2-

Tribunal, that in as much as the sentence imposed upon him by the Criminal Court has been suspended by the Appellate court (High Court) no proceedings could be taken for terminating the services of the respondent under and with reference to clause(s) of the second proviso to Article 311(2) of the constitution of India. The Tribunal quashed the show cause Notice on the following reasoning:-

"Therefore, it is clear that once the sentence has been suspended admitting the appeal, the criminal proceeding of the lower court which ended in conviction and sentence of the applicant is being continued in the appellate court and it can end only when the proceedings in the appellate Court come to an end. Till that the applicant cannot be proceeded under the provisions of the TNCS (CCA) Rules as has been done in this case. Yet another flaw is that there has been inordinate delay of two years and eight months after the conviction as sentence was passed by the lower Court in issuing the impugned show cause notice. This inordinate delay is unexplained. Therefore, the show cause notice to the applicant is not sustainable in law till the appellate Court disposes of the Criminal appeal."

The correctness of the said order of the Tribunal was questioned by the Deputy Director of Collegiate Education in the Appeal. The learned Hon'ble Judges (D.P. Jeevan Reddy and K.S. Paripoornan) of the Supreme Court of India in the Appeal cited observed as under:-

"We need not, however, concern ourselves any more with the power of the appellate court under the Code of Criminal Procedure for the reason that what is relevant for clause(s) of the second proviso to Article 311(2) is the "conduct which has led to his

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(3)

conviction on a criminal charge and there can be no question of suspending the conduct. There are, therefore, of the opinion that taking proceedings for and passing orders of dismissal, removal or reduction in rank of a government servant who has been convicted by a criminal court is not barred merely because the sentence or order is disposed by the appellate court or on the ground that released on bail pending the appeal.

"The Tribunal seems to be of the opinion that until the appeal against the conviction is disposed of, action under clause (a) of the second proviso to article 311(2) is not permissible. We see no basis or justification for the said view. The more appropriate course in all such cases is to take action under clause (a) of the second proviso to Article 311(2) once a government servant is convicted of a criminal charge and not to wait for the appeal or revision in the case may be. If, however, the government servant -accused is acquitted on appeal or other proceedings, the order can always be revised and if the government servant is reinstated, he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course suggested to wait till the appeal, revision and other remedies are over, would not be advisable since it could mean continuing in service a person who has been convicted of a serious offence by a criminal court. It should be remembered that the action under clause (a) of the second proviso to Article 311(2) will be taken only where the conduct which has led to his conviction is such that it deserves any of the three major punishments mentioned in Article 311(2). As held by this court in Shanker Dass Vs. Union of India, (1985) 2 SCC 378.

"Clause (a) of the second proviso to Article 311(2) of the constitution confers upon the government the power to dismiss a person from service on the ground of conduct which has led to his conviction on a criminal charge.

[unclear]

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But, that power like every other power has to be exercised fairly, justly and reasonably. Surely, the Constitution does not contemplate that a government servant who is convicted for parking his scooter in a no parking area should be dismissed from service. He may, perhaps, not be entitled to be heard on the question of penalty since clause(a) of the second proviso to Article 311(2) makes the provisions of that article in applicable when a penalty is to be imposed on a government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose a penalty carries with it the duty to act justly."

10. What is really relevant thus is the conduct of the government servant which has led to his conviction on a criminal charge. Now, in this case, the respondent has been found guilty of corruption by a criminal court. Until the said conviction is set aside by the appellate or other higher court, it may not be advisable to retain such person in service. As stated above, if he succeeds in appeal or other proceedings the matter can always be reviewed in such a manner that he suffers no prejudice.

11. The Tribunal having given yet another reason for quashing the show cause notice, viz. that whereas the conviction of the criminal court was on 4.2.1991 the impugned show cause notice was issued only on 27.10.93. The appellant has explained that though the respondent (Sic appellant) had come to know the conviction soon after the judgement of the criminal court, there was a doubt whether action can be taken against the respondent in view of the order of the High Court suspending the sentence. It is stated that after obtaining legal advice, the show cause notice was issued. In our opinion the delay, if it can be called one, in initiating the proceedings has been properly explained and in any event, the delay is not such as to vitiate the action taken.

12. The appeal is accordingly allowed and the order of the Tribunal is set aside."

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3. You are, therefore, requested to take action in similar cases in the light of the above judgement of the Supreme Court of India and these instructions may please be brought to the notice of all concerned for meticulous compliance.

4. On receipt of this letter may please be acknowledged.

Yours faithfully

W.W.-

(Mohan Raj)
Joint Secretary Personnel