

From

The Chief Secretary to Government. Haryana.

To

1. All Heads of Departments, Commissioners
Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. All Deputy Commissioners and Sub Divisional
Officers (Civil) in Haryana.
3. The Registrar,
Punjab and Haryana High Court, Chandigarh

Dated Chandigarh, the May 13th, 1998.

Subject :— Clarification regarding section 12 of Probation of Offenders Act.

Sir,

I am directed to address you on the subject mentioned above and to say that some Departments of the Government are under the impression that if a Government employee is related on probation after his conviction on a criminal charge, he is entitled to continue in service and can not be dismissed on the basis of his conduct which led to his conviction under clause (2) proviso (a) of Article 311 of the constitution of India.

This question come-up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No. 1451 of 1987—Hari Chand Vs. the Director of Education. The Hon'ble Court

vide judgement dated 14-1-93 delivered in the said case has categorically laid down that release of a convicted employee on probation under the provisions of probation of offenders Act does not help such an employee and he can still be dismissed from Government service on the basis of his conviction as provided in Art. 311 of the Constitution. A copy of the relevant judgement of the Hon'ble Supreme Court is enclosed for your information and guidance.

Yours faithfully,

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government Haryana.

A Copy is forwarded to all Financial Commissioners/Commissioners and Secretaries to Government Haryana for information and guidance.

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government Haryana.

To

All the Financial Commissioners/
Commissioners and Secretaries to
Government Haryana.

U. O. No. 62/17/98—6 GSI Dated Chandigarh, the May 13, 1998.

JUDGEMENTS TODAY

JT 1998 (1) S. C. 124

Hari Chand

Vs.

The Director of School Education.

Civil Appeal No. 1451 of 1987

(From the judgement and order dated
25-3-85 of the High Court of Punjab and
Haryana in CWP No. 1531/85).

S. P. BHARUCHA

&

V. N. KHARE, JJ

Dated 14-1-1998

Appearances

Mr. Ujjagar Singh, Senior Advocate and Mr. J. D. Jain, Advocate with him for the appellant.

Criminal Law

Probation of Offenders Act, 1958. Sections 4(1), 12 read with Indian Penal Code-Section 408-Service Law-Held Section 12 applies in respect of a disqualification that goes with a conviction under the law which provides for offence and its punishment and it cannot be held that conviction should not be considered for dismissal of person from Government service.

Held

In our view, Section 12 of the Probation of Offenders Act would apply only in respect of a disqualification that goes with a conviction under the law which provides for the offence and its punishment. That is the plain meaning of the words "disqualification, if any, attaching to a conviction of an offence under such law" therein. Where the law that provides for an offence and its punishment also stipulates a disqualification, a person convicted of the offence but released on probation does not