

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 18801 of 1991

Date of Decision : September 02, 2015

Rameshwar Dass		Petitioner
Vs.		
State of Haryana and another		Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Kapil Kakkar, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

On the basis of a preliminary inquiry, the petitioner, who was working as a Veterinary Live-Stock Development Assistant (VLDA) with the respondent Department, was charge-sheeted for certain acts of omission and commission on his part. The petitioner's reply to the charge-sheet, having been found to be unsatisfactory, through order dated 16.04.1981, his services were terminated. The petitioner challenged that order before the

Civil Court.

Vide order dated 20.12.1985, Additional District Judge, Hisar, set aside the order of termination of services of the petitioner. However, the respondent Department was granted liberty to initiate a fresh inquiry, in accordance with the Punishment of Appeal Rules, 1952 and the instructions of Haryana Government, issued from time to time. The directions given by the Additional District Judge, Hisar, through order dated 20.12.1985, are reproduced hereunder :-

“Since I have come to the finding that the Enquiry had not been conducted in fair manner, the order of removal passed on its basis cannot be sustained. The appeal is consequently accepted and the order is set aside. However, it is open to the Department to initiate a fresh enquiry, conduct the same in the manner provided in Punishment and Appeal Rules, 1952 and the instructions of the Haryana Government issued from time to time and then pass an appropriate order on the basis thereof. The Department can initiate this action within two months of this judgment. In case no action is initiated by them within two months, the plaintiff-appellant would be allowed to join his duty and would be entitled to all the benefits to

which he otherwise would have been entitled to not for his removal. If after the enquiry, the appointing authority again comes to the same conclusion that the dismissal was called for, the plaintiff would not get any benefit. On the contrary, if the finding is in his favour, he would be entitled to all the benefits from the date of the removal of the service by the impugned order till his reinstatement after the second enquiry. In the circumstances of the case, there will be no order as to costs.”

In pursuance to the liberty granted, as per the above reproduced order, one Dr. G.P.Grover was appointed as Inquiry Officer to hold a regular departmental inquiry against the petitioner. However, Dr. Grover, in writing, informed the respondent Department that he was not in a position to complete the inquiry and in view of the inability shown by him, one Dr. P.L.Chadha was appointed as Inquiry Officer. Since Dr. Chadha also retired on 31.08.1987, before he could complete the inquiry, this task was then entrusted to one Dr. C.B.Lohan, who after associating the petitioner, inquired into the charges levelled against him. As per the Inquiry Report dated 25.02.1989, the petitioner was exonerated of all charges. However, the punishing Authority differed with the findings recorded by the Inquiry Officer and accordingly, as per the rules, issued a Show Cause Notice to the petitioner asking him to submit his response within 15 days from the receipt

of the notice. Having received no reply from the petitioner, the impugned order of stoppage of two annual increments with cumulative effect was passed against the petitioner.

The submission made on behalf of the petitioner is that he, in the initial preliminary inquiry, as also in the regular departmental inquiry, has been found innocent, and therefore, has been wrongly punished through an arbitrary order passed by his punishing Authority. It is further submitted that the Show Cause Notice issued by the punishing Authority, while differing with the findings of the Inquiry Officer, was never served upon the petitioner, and therefore, the impugned order, being in violation of principles of natural justice, is liable to be set aside.

So far as the initial termination order of the petitioner, based on preliminary inquiry, is concerned, the same was set aside by the order of the Civil Court, as referred to above and as per the liberty granted by the Civil Court, the petitioner was subjected to a regular departmental inquiry. It is true that the Inquiry Officer exonerated the petitioner, but the punishing Authority was well within his rights to differ with the Inquiry Report and while differing with the same, by following the principles of natural justice, the punishing Authority punished the petitioner. I find no illegality in the same.

So far as the submission with regard to non-compliance of principles of natural justice is concerned, a perusal of the Show Cause

Notice shows that the copies of the same were endorsed to the petitioner under registered cover at his official address. Another copy was forwarded to him at his home address. In the written statement filed, it is the specific case of the respondents that the copy of the Show Cause Notice dated 29.04.1989 (Annexure P-2) was duly supplied to the petitioner. To this, the petitioner has submitted no replication.

Even otherwise, no meaningful argument was raised to question the correctness of the punishment order. The punishing Authority has imposed the punishment upon the petitioner after relying upon the statements of the complainants, in which, allegations have been made against the petitioner for having accepted the money for treatment of their cow, when he was not supposed to do so. I also find no reason so as to why the complainants would make false statements to falsely implicate the petitioner, especially in the absence of any allegations of mala fide against them.

In view of the above, finding no merit in the present petition, the same is ordered to be dismissed.

(DEEPAK SIBAL)
JUDGE

September 02, 2015
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