

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.9612 of 1999 (O&M)
Date of Decision : 21.1.2015

Jamna Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. I.D. Singla, Advocate for the petitioner.
Mr. Ashok Chaudhary, Addl.A.G., Haryana.
Mr. Namit Gautam, Advocate for Haryana Agro Industries Corpn.
Mr.R.K. Malik, Sr. Advocate with Mr. Mandeep Singh, Advocate for
respondent no.5.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Feeling aggrieved against the impugned order dated 10.2.1998 (Annexure P-6) and order dated 21.8.1998 (Annexure P-7), whereby benefit of one special increment on account of adopting small family norms, earlier granted to the petitioner was withdrawn, awarding the punishment of stoppage of one annual grade increment with cumulative effect. Petitioner has also challenged the promotion order Annexure P-14, whereby respondent no.5 was promoted ignoring the petitioner on account of abovesaid major punishment.

Notice of motion having been issued, written statement was filed on

behalf of respondents no.1 to 4. A separate written statement was filed on behalf of respondent no.5.

Learned counsel for the petitioner submits that once the matter has been concluded in favour of the petitioner vide order dated 4.12.1996 (Annexure P-4), whereby awarding him the punishment of simple warning, it was not open to the respondent authorities to reopen the matter for the same alleged misconduct, thereby awarding major punishment by stopping one annual grade increment with cumulative effect. He further submits that the charge against the petitioner was that he dealt with the file, awarding the financial benefit of one special increment to himself. Since the petitioner only forwarded the file to the higher authority and did not deal with it himself, it was thought appropriate by the competent authority to issue only a simple warning to the petitioner vide Annexure P-4. No further incident had taken place, warranting reopening of the matter, because of which the respondent authorities proceeded in a most arbitrary manner in reopening the same issue again, which had already been decided in favour of the petitioner. Learned counsel for the petitioner would next contend that the impugned order Annexures P-6 and P-7 were arbitrary on the face of it and since respondent no.5 was junior to the petitioner, his better and preferential claim for consideration for promotion was illegally denied to the petitioner, by passing the impugned order dated 16.11.2000 (Annexure P-14), promoting his junior-respondent no.5. He prays for setting aside the impugned orders, by allowing the present writ petition.

Per contra, learned counsel for respondents no.1 to 3 submits that it was a case of concealment on the part of the petitioner. Although, passing of order dated 4.12.1996 (Annexure P-4) was a matter of record, but once the complaint against the petitioner was received by the Government, who issued a directive vide impugned communication dated 10.2.1998 (Annexure P-6),

respondent authorities were duty bound to take the same into consideration and accordingly the matter was reconsidered. A show cause notice was issued to the petitioner, thereby ensuring meticulous compliance of the principles of natural justice. After due consideration of the matter, punishment order was passed vide order dated 7.3.2001 (Annexure R-1). He further submits that the petitioner submitted a false affidavit, claiming that he was entitled for the benefit of one special increment for adopting small family norms, because he was having only three children, whereas factually the petitioner was having four children at that point of time. Learned counsel for respondents no.1 to 3 would next contend that the petitioner has successfully misled the respondent authorities, got the financial benefit of one special increment, for which he was not entitled in law and once the petitioner was caught at the wrong foot, he refunded the amount wrongfully drawn by him. Besides this, he felt sorry, which clearly goes to show that petitioner has misconducted himself, while withholding the material facts from the notice of the respondent authorities at the relevant point of time. In such a situation, the competent authority did not exceed its jurisdiction, while reopening the matter and awarding suitable punishment to the petitioner and that too after complying with the principles of natural justice. He prays for dismissal of the writ petition.

Similarly, learned Senior counsel for respondent no.5 submits that the petitioner was rightly ignored for promotion because he had been awarded a major punishment. Once the petitioner was not found entitled for promotion because of major punishment having been imposed upon him, the respondent authorities committed no error of law, while promoting respondent no.5 vide order dated 16.11.2000 (Annexure P-14), which deserves to be upheld.

Having heard the learned counsel for the parties at considerable

length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that in the given fact situation of the present case, instant one has not been found to be a fit case, warranting interference at the hands of this court, while exercising its extra ordinary writ jurisdiction under Articles 226 of the Constitution of India. To say so, reasons are more than one, which are being recorded hereinafter.

Respondents no.1 to 3 i.e. Haryana Agro Industries Corporation filed the written statement as far back as on 11.7.2001, taking specific averments in para 13 and placing on record the punishment order dated 7.3.2001 (Annexure R-1), specifying that the petitioner submitted a false affidavit, misled the authorities because of his malafide intention, with a view to claim the financial benefit of one special increment on account of adopting small family norms, for which he was not entitled. It is also a matter of record that despite the lapse of long time of about 14 years, no replication has been filed on behalf of the petitioner, controverting the abovesaid material and factual aspects of the matter, which goes to the root of the cause.

Learned counsel for the respondent-management also pointed out from the statement of allegations that as a matter of fact, date of birth of the 4th child of the petitioner was 26.5.1977, whereas he claimed having three children by submitting a false affidavit in the year 1994. During the course of hearing, this factual aspect of the matter could not be denied by learned counsel for the petitioner and rightly so, because it was a matter of record. Having said that, this court feels no hesitation to conclude that the respondent authorities committed no error of law, while reconsidering the matter on a complaint having been received against the petitioner and thereafter a show cause notice was issued before passing the punishment order, thus, complying with the principles of natural justice.

Had the petitioner been a truthful litigant, he would have been entitled for a sympathetic consideration. However, in the present case, petitioner has misconducted himself by submitting a false affidavit, thereby misleading the respondent authorities for claiming financial benefit of one special increment. In fact, he successfully mislead the respondent authorities at the first instance and received the financial benefit of one special increment, claiming himself to be entitled for the said benefit on account of adopting small family norms. However, at a later point of time, a complaint was received against the petitioner, compelling the respondent authorities to reopen the matter.

Thereafter, a show cause notice was issued against the petitioner. After complying with the principles of natural justice, the impugned punishment order was passed. Even if the allegation that the petitioner dealt with the file himself is to be ignored for the sake of argument, still the material fact remains the same that he submitted a false affidavit and successfully mislead the respondent authorities. When the claim of the petitioner was found factually incorrect, he appeared before the authorities and expressed an apology. It is not the pleaded or argued case on behalf of the petitioner that principles of natural justice were not complied with by the respondent authorities before passing the impugned order. Under these circumstances, it can be safely concluded that the impugned orders passed by the respondent authorities, were neither arbitrary nor without jurisdiction and the same deserve to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that the present writ petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, instant writ petition stands dismissed, however, with no order as to costs.

21.1.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE