

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-16871 of 2011

Date of Decision : 09.03.2015

Dilbag Singh

.... Petitioner

Vs.

Union of India & others

... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr.Shashi Kant Gupta, Advocate for
Mr.L.M.Gulati, Advocate
for the petitioner.

Ms.Jaspal Kaur Gurna, Advocate
for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Ajay Tewari, J.(Oral)

By this petition the petitioner has challenged the order dated
06.09.2010 (Annexure P-3) removing him from service.

The petitioner joined the service in 1990 and, after 16 years was
served the charge-sheet to the following charges:-

“ **Article No.1**

*That the said Sh.Dilbagh Singh while
functioning as GDS BPM, Jagdev Kalan BO in
account with Rajasansi SO, Amritsar during
the period 01.04.1998 to 02.08.2006 is alleged
to have weeded out the record pertaining to
period 2001-2004 of Jagdev Kalan Branch*

office without any permission or written orders from the Competent Authority thereby infringing the provision contained in Rule No.21 (2) and (3) of BO Rules.

Article No.2

That the said Dilbagh Singh while functioning as DGS BPM, Jagdev Kalan BO in account with Rajasansi SO, Amritsar is alleged to have refused to sign the statement given and written by him to the SDI (North West) on 02.08.2006 at Amritsar. He is also alleged to be non-cooperative to have shown gross indiscipline and disregarded his superiors. Thus he has not maintained absolute integrity and devotion to duty as required vide Rule No.21 of the GDS (Conduct & Employment) Rules, 2001.”

After regular inquiry, the inquiry officer held that charge No.1 was not proved but charge No.2 was proved. Thereafter, the disciplinary authority agreed with the report of the inquiry officer and held that charge No.1 was not proved and with regard to charge No.2 imposed the punishment of removal from service. The petitioner filed an appeal and the same was dismissed.

The precise contention of the learned counsel for the petitioner is that the punishment of removal from service is too harsh for that article of the charge which was held to have been proved.

Learned counsel for the respondents has pointed out to the appellate order as per which the appellate authority has held that charge No.1 has also been proved.

Learned counsel for the petitioner has assailed this argument by stating that if the appellate authority wanted to disagree with the finding of the inquiry officer a separate show cause notice had to be issued to the petitioner and without the same having been done the appellate authority could not proceed on the basis that the charge No.1 was proved.

Learned counsel for the respondents is not in a position to show that any notice was ever issued to the petitioner by the appellate authority to show cause why charge No.1 could not be held to be proved.

In these circumstances, there is no option except to set aside the appellate order and remand the case to the appellate authority to proceed from the stage of considering the appeal of the petitioner *de novo* as per law. Consequently, the petition is allowed to the limited extent above and the matter is remanded back to the appellate authority for the fresh decision on merits as per law. Let the necessary exercise be done within a period of 3 months from the date of receipt of a certified copy of this order.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 09, 2015

Pooja Sharma-I

(AJAY TEWARI)
JUDGE