

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

**C.W.P. No.19928 of 2011(O&M)
Date of Decision : 03.03.2015**

Mohammad Farooque

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K. Malik, Sr. Advocate
with Mr. Kuldeep Sheoran, Advocate
for the petitioner.

Ms. Shruti Goyal, A.A.G., Haryana.

Mr. Ram Pal Verma, Advocate
for respondents No.3 and 4.

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

AJAY TEWARI, J. (Oral)

This petition has been filed against the order dated 01.09.2011/17.08.2011 (Annexure P-14) whereby the approval has been granted by the Director to dismiss the petitioner from service.

This case has a chequered history. The petitioner was appointed as a Math's Master on 06.07.1994 with the respondent No2. In the year 2004, the results of his students were abysmal to the extent that only 4.69% students had passed in the Matric and 19.35% students had

passed the Middle Examination. The regular inquiry was instituted and the petitioner was placed under suspension on 16.09.2005. By order dated 27.03.2006 the management-respondent No.4 recommended his dismissal to the respondent No.2 who accepted the same by order dated 10.11.2006. The petitioner challenged that in appeal and the appeal having been dismissed the petitioner came to this Court by way of a writ petition bearing CWP No.10224 of 2008. This Court held that while accepting the recommendation of the dismissal the petitioner had not been heard and this Court after setting aside the order of the respondent No.2 and, the order of the Appellate Court remanded the case back to the respondent No.2 to decide the case afresh after hearing the petitioner. It is thereafter that the impugned order has been passed again accepting the recommendation of the dismissal of the petitioner.

The precise argument of the learned senior counsel is that to hold a teacher solely responsible for bad results cannot be said to be legal because there are other host factors. He has drawn the attention of this Court to the fact that particularly in the area of Mewat there is very little interest in education and that is also a contributory factor. He has pointed out that even in other subjects the results of the students were comparatively worse (as compared to the State wise average). In sum and substance, it is the argument of learned senior counsel that the punishment is too harsh and actually this Court should set aside the order of punishment and reinstate the petitioner.

Learned counsel for the respondents have sought to justify the

order of dismissal by arguing that the results of the students of the petitioner reveal that he had a callous attitude towards the students and their interest and the teachers like the petitioner who have highest responsibility to the sorry state of education in the Mewat area and therefore this Court should not interfere with the order of punishment.

In my considered opinion, the arguments of both the sides are too extreme. No doubt, as pointed out by the learned Senior Counsel for the petitioner, he cannot be held solely responsible for the results of the students yet he cannot be completely exonerated either. It would not be an exaggeration to say that most people feel that their teachers have had a huge impact on their lives and success and that is why some of our scriptures hold teachers even in higher esteem than God. On the other hand, even the argument of learned counsel for the respondents that the punishment should be maintained, is also too harsh in equity and fair play. One option before this Court would be to set aside the impugned order and again remand the case back for a fresh decision. However, keeping in mind the fact that the controversy is already 10 years old and it is the second time that this Court has been approached by the petitioner, I do not deem it appropriate to send him for yet another round of litigation. In ***Union of India vs. S.S. Ahluwalia, 2007(7) SCC 257***, the Hon'ble Supreme Court held as follows :-

“The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case the court is to remit the matter to the disciplinary authority for reconsideration of the punishment.

In an appropriate case in order to avoid delay the court can itself impose lesser penalty”.

Keeping in mind the entire factual matrix, in my opinion the appropriate punishment for the petitioner would be compulsory retirement. In the circumstances, it is directed that the petitioner would stand compulsorily retired w.e.f. 10.11.2006. The respondents are directed to compute and pay all his remaining benefits within a period of 3 months from the date of receipt of a certified copy of this order, failing which, the petitioner will be entitled to claim the same with interest @ 8% p.a. from the date of entitlement viz. 10.11.2006 till the date/s of payment/s.

Petition stands disposed of in the above terms.

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

March 03, 2015

ashish

**(AJAY TEWARI)
JUDGE**