

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.1688 of 2014

Date of Decision: May 19, 2015

Jagdish Ram

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Aman Arora, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The prayer in the present writ petition is for quashing of the order dated 15.5.2013 (Annexure P-1) passed by respondent No.3, whereby the petitioner has been dismissed from service by invoking the provisions of Article 311 of the Constitution of India.

Mr.Aman Arora, learned counsel appearing for the petitioner submits that the petitioner was falsely implicated in FIR No.1 dated 14.5.2013, Police Station, Vigilance, Chandigarh under Sections 7, 8, 13(2) of the Prevention of Corruption Act, 1988 and 120-B IPC. In pursuance to the registration of the said FIR, vide impugned order dated 15.5.2013, the petitioner has been dismissed from service by dispensing with holding of

the enquiry by invoking the provisions of Article 311 of the Constitution of India. Against the aforementioned order, the petitioner has filed an appeal before respondent No.2, which has also been dismissed vide order dated 27.12.2013 (Annexure P-3).

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana submits that Article 311(2)(b) of the Constitution empowers the authorities to dispense with holding of the enquiry while dismissing an employee from service and accordingly the said power had been invoked. The orders, Annexures P-1 and P-3, passed by the respondents are legal, fair and just and there is no illegality, much less, perversity in the aforementioned orders.

I have heard the learned counsel for the parties and appraised the paper book.

There is no dispute to the provisions of Article 311 of the Constitution. However, the Hon'ble Supreme Court and this Court had an occasion to ponder on the applicability of Article 311 of the Constitution of India by taking into consideration the facts and circumstances of each case. Article 311(2) of the Constitution envisages that before taking any action, the authorities are enjoined upon an obligation to subjective satisfaction. However, on going through the contents of the order, Annexure P-1, no satisfaction has been recorded and the order, thus, is not sustainable, much less, vitiated in law.

In order to lend support to the aforementioned findings, I draw support from the judgments rendered in **Sudesh Kumar Versus State of Haryana & Ors., 2005 (11) SCC 525** and **Jaswant Singh Versus State of**

Punjab and others, (1991) 1 SCC 362, whereby it has been held that for dispensing with the enquiry under Article 311(2)(b) of the Constitution, the authority must satisfy by recording reasons that it was not reasonably practicable to hold an enquiry. However, no such procedure, aforementioned, has been followed.

Accordingly, the writ petition is allowed. The order dated 15.5.2013 (Annexure P-1) is quashed and consequential the order dated 27.12.2013 (Annexure P-3) passed by the Appellate Authority is also quashed.

The petitioner shall be entitled to all consequential benefits, if permissible in law.

May 19, 2015
ramesh

(AMIT RAWAL)
JUDGE