

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

CWP No. 22188 of 2014 (O&M)

Date of decision: 13.07.2015

Maman Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Garg, Advocate for
Mr. R.B. Garg, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the impugned order dated 10.02.2014 (Annexure P-1), passed by respondent No.1.

The brief facts of the case are that the petitioner retired as District Elementary Education Officer on 30.06.2008. As per his assertion, during the entire service career, his work and conduct remained to the satisfaction of the respondents. No charge sheet or enquiry was pending against the petitioner at the time of retirement. The petitioner was charge sheeted on 23.04.2009 (Annexure P-2) after his retirement on the allegation that he had purchased gas stoves

and its accessories from a non approved source and at a higher rate than the market rate.

It is contended that the no adverse remark was ever conveyed to the petitioner during his entire service. The inquiry officer in its enquiry report dated 23.04.2010 held that the evidence against the officer, is too weak to return a finding of guilt against the officer. Thereafter, after more than two years, the respondent No.1 issued an order dated 11.07.2012, disagreeing with well reasoned enquiry report (Annexure P-6) and held the petitioner guilty of both the charges at Sr. No.1 & 2 mentioned in the charge sheet dated 10.02.2014 (Annexure P-1). The learned counsel further submits that it is a settled principle of law that the retiral benefits cannot be stopped if there was no charge sheet or enquiry pending against the retired official.

On the other hand, the learned State counsel refers to Annexure R-1 and submits that the items in question had been purchased by the petitioner from Faridabad Central Cooperative Consumers Store Ltd., Faridabad. The said Store was neither recommended nor approved source by the Govt., of Haryana, in view of the Memo No. 6/3/2007/41B-II dated 14.02.2008. The Gas stoves purchased by the petitioner were of substandard quality and without ISI Mark. The petitioner purchased the items from an unapproved source despite clear directions and guidelines of the Department.

Therefore, he has been rightly charge sheeted and the impugned order dated 10.02.2014 has been rightly passed against the petitioner.

I have heard the learned counsel for the parties and have gone the record.

The petitioner while posted as District Elementary Education Officer, had been allotted a fund of Rs. 23,05,000/-, vide Directorate letter No. 1/96-2000 MDM(1) dated 01.02.2007 for purchase/buy of Gas stoves and cylinders for 461 schools and Rs. 5000/- was allocated for each school. The amount was to be utilized on or before 31.03.2007 by purchasing of two gas cylinders, one stove along with other cooking equipments to implement the the Mid Day Meal Scheme subject to the conditions reflected in Annexure R1 which reads as under:-

- i. The expenditure may be made strictly according to the Govt. instructions/norms.*
- ii. As far as possible procurement of cooking equipments/devices shall be done in a decentralized manner, preferably at school/block level, so that there is no delay in making available the required equipment/devices to the schools.*
- iii. Gas Cylinders may be purchased from approved Gas agencies and gas chullah should be ISI marked.*

The petitioner, in violation of the terms and conditions stipulated in Annexure R-1, purchased the equipments from the

Faridabad Central Cooperative Consumers Store Ltd., Faridabad, which is not an approved source. It is asserted by the learned State counsel that the prevalent market price of the set of articles was around Rs. 710/- whereas the petitioner had purchased the same at Rs. 1310/- and accordingly, caused loss of Rs. 2,76,600/-. There is no document that the source i.e. Faridabad Central Cooperative Consumers Store Ltd., Faridabad, is an approved agency for such a purchase. The stoves purchased by the petitioner were not of ISI mark.

Keeping in view the fact that the purchase made was not in terms of the guidelines issued by Director Elementary Education, Haryana reflected in Annexure R-1, the conduct of the petitioner in by purchasing substandard equipments is essentially a lurking danger to the safety and security of the staff involved in preparation of the meals for the children. Accordingly no case for quashing the impugned order dated 10.02.2014 (Annexure P-1) is made out.

Dismissed.

13.07.2015

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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to reporter : Yes / No