

the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 9680 of 2012

Date of Decision: 28.10.2015

Gurdev Singh and Others

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice G.S.Sandhawalia.

Present: Mr. Gurcharan Singh, Advocate
for the petitioner(s).

Mr. Pankaj Mulwani, Deputy Advocate
General, Punjab for respondents No.1, 2 and 4.

Mr. Gopal Singh Nahel, Advocate
for respondent No.3.

G.S.Sandhawalia, J.

The petitioners have challenged the order dated 2.5.2012 (Annexure P1) whereby they were transferred on administrative grounds from the Open Jail, Nabha to the various other jails in the State of Punjab by the Director General of Police (Prisons), Punjab.

A Co-ordinate Bench of this Court, vide order dated 22.5.2012, had rejected the challenge to the transfer orders. However, respondent No.3-Sukhwinder Singh, against whom various allegations of misappropriation had been made by filing a complaint dated 11.5.2012 (Annexure P2) by the petitioners was noticed and the Director General of Vigilance Bureau, Punjab had been impleaded as respondent No.4 and direction had been issued. Eventually, after the departmental

proceedings, a punishment order was imposed on 23.4.2015 which was noticed by this Court on 14.8.2015 as under:-

"As per the affidavit filed by the Under Secretary, respondent No.3 has been punished vide order dated 23.04.2015 and the following punishment has been imposed:

- "i) His current initial pay has been reduced to Rs. 10300/- from 24930/-.*
- ii) He will not be eligible for any promotion for the next five years from the date of order dated 23.4.2015.*
- iii) Recovery of Rs.99,625/- will be effected from him in seven monthly instalments."*

It has been further averred in the affidavit that no fruitful purpose would be served to refer the matter to the Vigilance Bureau.

Counsel for the petitioners, however, submits that the said respondent has now been given a plump posting/charge in his own pay-scale of Superintendent, Central Jail, Bhatinda vide order dated 09.07.2015.

Faced with this situation, counsel for the State prays for time to find out as to how on the one hand, major punishment has been imposed on respondent No.3 and on the other, the State is giving such an officer a responsible and important charge. Affidavit be filed to that effect.

Adjourned to 21.09.2015."

In the additional affidavit of Dharam Devi, Under Secretary to Government of Punjab, Department of Home (Jails), filed in pursuance of the above said order, it has been averred that the said respondent has been posted in his own pay scale against the vacant post as per Punjab Government Transfer Policy for the year 2015-16. The said respondent is alleged to have completed of three years of service as Superintendent, Central Jail, Mansa and he has been transferred thereafter and he has neither been promoted and the order of punishment stands intact. It is pertinent to mention that respondent No.3 has filed Civil Writ Petition No. 15069 of 2015 whereby he challenged the punishment order also and this Court has also stayed the recovery of ₹ 99,625/- vide order dated 31.8.2015.

In the circumstances, the present writ petition, as such, has been rendered infructuous as the State has acted upon the directions of this Court and ordered the enquiry as per the allegations made by the petitioners. The respondent No.3 is pursuing his legal remedies by challenging the punishment order separately, which is legally permissible. No further action is required in view of the additional affidavit filed.

Accordingly, the present petition is disposed of.

(G.S.Sandhawalia)
Judge

October 28, 2015

"DK"