

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

LPA-2065-2014(O&M)

Date of Decision: March 09, 2015

Bakhshish Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr.H.S.Batth, Advocate
for the appellant.

Mr.Gaurav Garg Dhuriwala, DAG, Punjab.

Ms.Gursharan Kaur, Advocate for
Mr.Amrit Paul, Advocate
for respondent No.3.

.....

- 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?***

SURYA KANT, J.(ORAL)

(1) The order dated 01.08.2014 passed by learned Single Judge, dismissing the appellant's writ petition in which he challenged the order of imposition of punishment of 2% cut in his pension, is under challenge in this Letters Patent Appeal.

(2) The appellant was working as a Junior Auditor in the Department of Finance, Government of Punjab, when he retired on attaining the age of superannuation on 31.07.2009. While working in the Finance Department, the appellant appears to have been assigned the duty of auditing the accounts of Guru Nanak Dev University, Amritsar, at Gurdaspur Campus.

(3) On receipt of some reference alleging the negligence committed by him while auditing those accounts, the appellant was served with a charge-sheet, dated 10.12.2009, followed by regular enquiry in which he was found guilty. The findings returned against the appellant were that:-

“(i) he did not conduct the proper enquiry regarding the cash book of the revolving funds of girls hostel of Gurdaspur due to which embezzlement committed by one Sukhjinder Singh could not be detected;

(ii) he was negligent in not demanding the annual balance certificate from the bank and in not tracing out the vouchers of the cash book of the revolving funds; and

(iii) he failed to bring the matter to the notice of senior officers.

(4) On the basis of the above stated findings, that the Punishing Authority imposed the punishment of 2% reduction in

the appellant's pension vide order dated 09.07.2012. His appeal was turned down by the Principal Secretary to Government of Punjab, Department of Finance, vide order dated 19.11.2013. The fate of his writ petition was also the same, giving rise to this appeal.

(5) The appellant has though contended on merits, we are not inclined to interfere with the findings by the Enquiry Officer. We, thus, proceed on the premise that the appellant was indeed negligent in not detecting the financial irregularities in the affairs of Gurdaspur Campus of the University.

(6) The only question that we have pondered over is whether the punishment of 2% cut in pension, for all times to come, is highly excessive and disproportionate to the nature of charges proved against the appellant?

(7) If a retired employee is found guilty of committing misappropriation, embezzlement or causing loss to the State Exchequer due to his irresponsible or negligent conduct, the imposition of permanent cut in his pension can be well justified but should such employee be awarded the same punishment for a singular act of negligence as has been proved against the appellant?

(8) We find from the appellate order dated 19.11.2013 that the following plea was specifically raised by the appellant:-

“During the personal hearing, he has requested that according to the decisions of the cases of the other employees charge-sheeted in this case, while taking a lenient view may also be pardoned and charge sheet may be dropped, because with the reduction of 2% in his pension, he will be suffering financial losses for the rest of his life.

(9) The Appellate Authority noticed the aforesaid plea in the last paragraph where it observed that:-

“Sh.Bakhshish Singh has taken the plea that with the reduction of 2% cut in the pension, he will suffer financial loss for the rest of his life.”

(10) But then the appeal has been turned down observing as follows:-

“He cannot falsify the allegations levelled against him. He could not succeed in proving the findings of the inquiry and the decision of the competent authority in any manner. Therefore, his appeal is dismissed.”

(11) Having given out thoughtful consideration to the submission that the appellant did raise a specific plea before the Appellate Authority which has not been adequately dealt with, we are of the view that the matter, only with respect to the

quantum of punishment, requires re-consideration at the hands of the Appellate Authority.

(12) We, thus, allow this appeal, set aside the order passed by learned Single Judge and further allow the writ petition in part setting aside the order of Appellate Authority dated 19.11.2013.

(13) Consequently, the case is remitted to the Appellate Authority to reconsider only the question of quantum of punishment and if the appellant is able to make out a case of extreme hardship and/or other relevant circumstances, let some compassion be shown by awarding the adequate punishment.

(14) It shall be appreciated if orders are passed within a period of four months from the date of receipt of certified copy of this order.

**(SURYA KANT)
JUDGE**

March 09, 2015
meenu

**(NARESH KUMAR SANGHI)
JUDGE**