

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.240 of 2015 (O&M)

Date of Decision: July 07, 2015

Mohinder SinghAppellant
versus
State of Haryana and others
.....Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Ram Kumar Malik, Senior Advocate with
Mr.Vijay Dahiya, Advocate, for the appellant.

-. -

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)

This letters patent appeal impugns the order dated 10.12.2014 whereby the appellant's writ petition challenging the order of termination of his services, has been dismissed by the learned Single Judge.

[2] The facts may be noticed briefly.

[3] The appellant was appointed as a Conductor in Haryana Roadways, Gurgaon Depot on contract basis vide appointment letter dated 23.07.2008. While he was on duty from Gurgaon to Nuh, he was alleged to have embezzled Rs.75/- by issuing only two tickets against five vouchers given by Delhi Police personnel travelling in that bus.

[4] The Inspector, who intercepted the bus, submitted a preliminary report against the appellant. In fact, the appellant also vide application dated 25.11.2009 acknowledged

the loss of Rs.75/- and gave in writing that he did not want any regular enquiry and that fine may be imposed upon him.

[5] The authorities, however, proceeded with the enquiry and after serving a show cause notice, the order dated 26.04.2011 (Annexure P-7) was passed whereby services of the appellant were terminated. The departmental appeal/revision were also turned down by the Appellate Authority and the Financial Commissioner, Haryana, vide their orders dated 06.03.2012 and 23.05.2012.

[6] The above-stated orders were unsuccessfully challenged before the learned Single Judge.

[7] We have heard Mr.Ram Kumar Malik, learned senior counsel for the appellant at a considerable length and gone through the records.

[8] It is vehemently contended that it was not a case of fraud or embezzlement but loss of Rs.75/- was caused by the appellant due to negligence as appropriately explained by him in the affidavit filed today. On this premise, it is urged that the appellant could be subjected to monetary penalty under Clause (iii) of the Government Policy dated 01.04.2003 (Annexure R-3). Learned counsel also contends that the appellant is entitled to be treated as a regular Conductor for all intents and purposes as the clause contained in the Statutory Rules regarding contractual appointment has been struck down by this Court.

[9] Having given out thoughtful consideration to the submissions, we do not find any substance therein. It would be profitable to reproduce Clause (iii) as well as Clause (iv) of the Government Policy dated 01.04.2003, which are to the following effect:-

“...Disciplinary action against contract persons
– Right to represent Guidelines:

..... (iii) Monetary penalty should be imposed for cases involving carelessness, negligence or deliberate disregard of orders, when such violations are of isolated nature and are not done by the concerned individual repeatedly. Further monetary penalty should always be imposed whenever loss caused to the Haryana Roadways is recoverable from such individuals.

(iv) The punishment of termination of contract should be imposed for the above acts when these are repeated and form a pattern of behaviour. Such a penalty should also be imposed if GM comes to a considered conclusion that for the stated reasons the person is considered unfit to perform the contract. Such reasons may include among others, continued rude behaviour with passengers or colleagues, alcoholism, repeated absenteeism and continuous ill health.....”

[10] In the instant case, the authorities have resorted to Clause (iv) reproduced above, for the reason that the appellant has been caught in embezzlement cases repeatedly. The incident which has led to termination of his services was 8th in seriatim. On past seven occasions, the appellant was subjected to heavy monetary penalties, as referred to by the Punishing Authority in its order dated 26.04.2011, the details of which are as follows:-

S.No	Dated	Charge	Decision
1.	16.5.2009	Embezzlement of Rs.15/-	Recovery of Rs.750/-.
2.	7.6.2009	Embezzlement of Rs.16/-	Recovery of Rs.1000/-.
3.	10.8.2009	Embezzlement of Rs.20/-	Recovery of Rs.1000/-.
4.	11.10.2009	Embezzlement of Rs.14/-	Recovery of Rs1400/-.
5.	20.12.2009	Embezzlement of Rs.80/-	Recovery of Rs.8000/-.
6.	02.12.2010	Embezzlement of Rs.16/-	Recovery of Rs.1600/-.
7.	05.01.2011	Embezzlement of Rs.30/-	Recovery of Rs.3000/-.

[11] Old habits die hard. The appellant in a short span of three years was caught eight times committing embezzlement, fraud or alleged financial loss to the State exchequer. A sum of Rs.17,950/- has already been imposed as penalty and recovered from him. He admitted the misconduct committed on eighth time though according to him, it was not a case of fraud. The repeated instances, sometimes twice in a month, are sufficient to infer the pattern of behaviour that the appellant is incorrigible and court resist his lust for easy money.

[12] In these circumstances, the punishment of termination of services inflicted on the appellant calls for no interference. Dismissed.

(SURYA KANT)
JUDGE

July 07, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE

CM No.2059 of 2015 in
LPA No.240 of 2015.

- - -

Mahinder Singh versus State of Haryana and others

Present : Mr.Ram Kumar Malik, Senior Advocate with
Mr.Vijay Dahiya, Advocate,
for the applicant-appellant.

* * *

For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and the
documents (Annexures A-1 and A-2) are taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

July 07, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE