

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-9-2015

Date of decision: September 07, 2015.

STATE OF PUNJAB & ORS.

... **Appellants**

v.

GURMEET SINGH

... **Respondent**

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

CORAM: **HON'BLE MR. JUSTICE HEMANT GUPTA**
HON'BLE MRS. JUSTICE RAJ RAHUL GARGPresent: Shri Manoj Bajaj, Additional Advocate General, Punjab
for the appellants.Shri Ram Kumar Malik, Senior Advocate with
Shri Vijay Dahiya, Advocate for the caveator-respondent.**Hemant Gupta, J.** (oral)

Present letters patent appeal under Clause X of the Letters Patent is directed against an order passed by a learned Single Bench of this Court on 1.2.2013, whereby the charge sheet dated 18.6.2010 was quashed.

In an departmental inquiry, the Commissioner passed an order exonerating the respondent, writ petitioner. However, the learned Financial Commissioner, in its order on revision, passed an order on 8.2.2008 differing with the findings of the inquiry officer and directed that the charges shall be formulated afresh and disciplinary proceedings to be conducted by appointing a new inquiry officer. It was observed inter-alia to the following effect:-

“... To comply with the directions of the Hon'ble High Court, it is essential that the charges shall be formulated afresh and

disciplinary enquiry be held by appointing new Enquiry Officer. A direction is given to the Commissioner, Jalandhar Division, Jalandhar to formulate charge sheet and send the same to Government for approval within 15 days.”

The writ petitioner challenged the action of the respondents in a writ petition No.5003 of 2009 but withdrew the same on 19.5.2010. Thereafter, on 7.6.2010, the State Government reviewed its earlier order and remitted the matter to the Commissioner, Jalandhar Division to reconsider the earlier finding and pass a fresh order. It was ordered as under:-

“5. Therefore in view of the above position the case is remitted to Commissioner, Jalandhar Division under Rule 21(c) of the rules ibid to reconsider his earlier findings and pass a fresh order after appreciating the facts and circumstances of the case.”

It is soon thereafter that the charge sheet was served upon the petitioner on 18.6.2010. The learned Single Bench has found that once the State Government has remitted the matter to the Commissioner, fresh charge sheet should not have been served as contemplated in the earlier order dated 8.2.2008.

We do not find any error with the order passed by the learned Single Bench. Once the State Government has reviewed its earlier decision dated 8.2.2008 and remitted the matter to the Commissioner to reconsider its earlier finding and pass a fresh order, the Commissioner could not issue a fresh charge sheet. As a matter of fact, the evidence recorded in the departmental proceedings cannot be wished away even if the revisional authority is to disagree with the findings recorded by the inquiry officer. Once any finding has been recorded, it is open to the competent disciplinary

authority to ask for further evidence but the evidence already recorded cannot be ignored from consideration.

In view of above, we do not find any error in the order passed by the learned Single Bench, which may warrant interference in this letters patent appeal. However, the competent disciplinary authority, i.e., the Commissioner shall be entitled to consider the evidence already recorded or such other evidence as the parties may wish to adduce before him in respect of which, the petitioner was earlier exonerated.

Dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 07, 2015.
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