

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

**CWP No.220 of 1995
Decided on :07.01.2016**

Tribhuwan Vashisht

... Petitioner

Versus

The Registrar Cooperative Societies, Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. C.B. Goel, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab
for respondent No.1.

Mr. D.S. Patwalia, Advocate for
Mr. Kannan Malik, Advocate
for respondents No.2 and 3.

G.S. Sandhawalia , J. (Oral)

The challenge in the present writ petition is to the orders dated 19.11.1991 (Annexure P-2) and 23.12.1994 (Annexure P-8), whereby the punishment of stoppage of annual grade increment with cumulative effect was effected upon the petitioner.

A perusal of the paper-book would go on to show that the said punishment was imposed on the ground that after a proper departmental inquiry, it was found that the petitioner had assaulted his superior and broke his two teeth. The petitioner had thereafter represented against the same punishment and the Managing Director of the respondent No.3 had recalled the order on 01.03.1993 (Annexure P-5) on the ground that the punishment

awarded was too much. Rather by the said order no punishment was thus imposed on the petitioner but he was let off scot-free for his misconduct. However, the same was not approved by the Board of Directors (for short 'BOD') of the respondent No.2, before whom the case was put up on 22.07.1994 (Annexure R-2/4).

Resultantly, the order dated 23.12.1994 (Annexure P-8) was passed in the compliance of the directions of the BOD and it was directed that the order dated 01.03.1993 (Annexure P-5), whereby the benefit had been granted was withdrawn and cancelled. Resultantly, the petitioner's increment of Rs.40/- was also withdrawn and it was directed that the same be recovered from him.

The fact remains that in pursuance of a proper departmental proceedings, after inquiry the petitioner was imposed the punishment on account of his mis-conduct. Nothing has been pointed out that the order dated 19.11.1991 (Annexure P-2) suffers from any infirmity or that the inquiry was not proper or there was any irregularity in the same.

The Apex Court in **'Kumaon Mandal Vikas Nigam Ltd. Vs. Girja Shankar Pant' 2001 (1) SCC 182** while examining the issue of disciplinary action taken on the departmental side held that examining the adequacy and inadequacy of evidence is not permitted and only if there is a finding that shocks the judicial

conscience of the Court, the Court would interfere. The principles of natural justice having been complied with and the procedure prescribed having been followed, the Court should not interfere in the punishment imposed.

Similarly in '**Registrar General, Patna High Court Vs. Pandey Gajendra Prasad and others' Vs. 2012 (5) SCR 994**, the scope of departmental proceedings was discussed and it was held as under:-

“12. It is trite that the scope of judicial review, under Article 226 of the Constitution, of an order of punishment passed in departmental proceedings, is extremely limited. While exercising such jurisdiction, interference with the decision of the departmental authorities is permitted, if such authority has held the proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by consideration extraneous to the evidence on the merits of the case, or if the conclusion reached by the authority, on the face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. (See: Shashikant S. Patil & Anr. (supra)).”

Similarly, the Apex Court in '**West Bengal State Electricity Board and others Vs. Hari Bhakta Ghosh' 2015 (1) RSJ 745** has held that the strict rules of evidence are not required to be followed by the Enquiry Officer and the High Court cannot substitute the findings of the Enquiry Officer by way of its subjective opinion.

A perusal of the inquiry report dated 12.11.1991

(Annexure P-1) would go on to show that the charge was duly proved by producing three witnesses. There was no valid reason for Managing Director to review the order dated 01.03.1993 and let the petitioner go free without even imposing any punishment. After having passed the order on 01.03.1993, the Managing Director passed another order on 10.06.1993, whereby the stoppage of annual grade increment with cumulative effect was reduced to without cumulative effect. Thus, the Managing Director was time and again passing various orders on various dated on a matter, which had already become final.

The respondent-Board has not approved the act of the Managing Director, which was patently illegal, but without jurisdiction. Since, he had once having passed the order, it was not open for him to review it on his own whims and fancies at separate points of time. The punishment which has been imposed is not of that magnitude which shocks the conscience of the Court and which would require any interference under Article 226 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

JANUARY 07, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE