

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

Date of decision: 02.03.2016

CWP No.5634 of 1995

Madan Gopal

...Petitioner

Vs.

Punjab State Civil Supplies Corporation Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Prateek Mahajan, Advocate, for the petitioner.

Ms. Deepali Puri, Advocate, for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

This petition has to succeed on the short ground that the inquiry report was not supplied to the petitioner for filing objections and even without recording a dissent note, the petitioner has been punished with recovery of Rs.2,84,405.31/- and has also been punished with an order of stoppage of one annual increment with cumulative effect. The petitioner was absolved of the charges alleged against him. The law is well settled that an inquiry report, if not dissented from by the punishing authority, delivers the delinquent from guilt and establishes his innocence. Had the punishing authority deemed fit to record dissent from the findings recorded in the inquiry, he would have to record reasons of disagreement with the findings recorded. But this has not happened in the instant case. The present petition was filed in the year 1995 against the punishment imposed and the order of recovery of money.

Mr. Prateek Mahajan rightly relies on the decisions of the

Supreme Court in Union of India Vs. Mohd. Ramzan Khan, (1991) 1 SCC 588;

Punjab National Bank Vs. Kunj Behari Misra, (1998) 7 SCC 84 and S.P.Malhotra Vs. Punjab National Bank & others, (2013) 7 SCC 251 as well on the Division Bench judgments of this Court in A.S.Randhawa Vs. State of Punjab, 1990 (1) RSJ 536 and Satnam Singh Vs. State of Punjab & others, 1996 (2) RSJ 702.

Ms. Puri, appearing for the Corporation, has no answer in the face of judicial precedents and is hard pressed on the point of distinction and therefore the major punishment inflicted cannot hold water nor the recovery sustained based on the same inquiry and incidental and ancillary issues to the charge of misconduct alleged and the same deserve to be set aside. It is too late in the day with a passage of two decades to apply the principles in Managing Director ECIL, Hyderabad & Ors v. B. Karunakar, (1993) 4 SCC 727 to order a rectification exercise to be carried out from where fault occurred.

As a result, the petition is accepted. The impugned orders are quashed. In case recovery has been made the money will be restituted. The petitioner is also held entitled to consequential benefits as might flow from setting aside the punishment order.

02.03.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE