

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

CWP No. 6051 of 1997

Date of decision: 4.4.2016

Subhash Chander(since deceased through LRs) ... Petitioner

Versus

The State of Punjab & anr. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Mr. Harkesh Manuja, Addl.A.G., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. No one appears for the petitioner despite service and notice in cause list for disposal of four old cases itemized on top of the daily list.

2. The petitioner was held guilty of embezzling a sum of Rs.1,72,990/-. The preliminary enquiry was conducted into his misconduct and an amount of Rs.40,000/- was refunded by the petitioner.

This was an admission of guilt albeit partial but very crucial. The petitioner was suspended and charge-sheeted for major misconduct of embezzling money. The regular enquiry went against him when the charge was proven at the hands of the enquiry officer. The petitioner had acted contrary to guidelines/instructions of the Punjab Government dated November 1, 1976 in drawing the amount from the fund of the scheme keeping it for personal use and spending it for the purposes other than mentioned in the guidelines. The scheme known as The Civilian Rifle

Training Scheme was aimed at building up the morale of the population

and restoring the confidence in its ability to handle weapons by the home-guards in the time of need. The scheme was self supporting. The cost of rifle and ammunition were to be met from the scheme's own resources. The aforesaid guidelines were laid down for utilization of funds. It was from this fund that the petitioner embezzled money or temporarily embezzled money by diversion of funds for his own use. The petitioner misutilized the funds and spent the money for holding parties of officers and audit parties against the guidelines. If moneys have to be spent on such departures then it could not be justified from the fund.

3. I have no reason to disagree with the findings of the enquiry officer and the punishment of the dismissal inflicted only to take another view which may be possible on the evidence when this court does not sit in appeal over the findings recorded in the enquiry report. The discretion exercised by the authorities in inflicting the petitioner with extreme punishment of dismissal is justified even on the basis of an admission of guilt by the act of refunding Rs.40,000/- upon discovery of defalcations.

4. No ground is made out for interference. The petition is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

4.4.2016
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