

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No3591 of 2003 (O&M).

Date of Decision: November 07, 2016

Rattan Deep Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.K.S.Dhillon, Advocate, for the petitioner.

Mr.Rajesh Bhardwaj, Additional Advocate General, Punjab.

Mr.Gaurav Chopra, Advocate, for respondent No.3.

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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.

The petitioner seeks quashing of the order dated 07.11.2002 whereby, in purported exercise of powers under Rule 7(2) of Part-D of the Punjab Civil Services (Judicial Branch) Rules, 1951 (for short, 'the Rules') his services from Punjab Civil Services (Judicial Branch) were terminated. He also seeks quashing of the recommendations made by the High Court on the basis of which his services were dispensed with. A writ of mandamus for reinstatement in service with consequential benefits has also been prayed for.

[2] A brief reference to the facts may be made.

[3] Punjab Public Service Commission (for short, the 'PPSC')

Punjab Civil Services (Judicial Branch).

[4] The petitioner competed for the advertised posts and he was amongst the 21 candidates whose names were finally recommended by PPSC for appointment. The High Court accepted only 18 candidates out of such recommendations for inclusion in the Register maintained under Rule 1-D of the Rules. Three candidates whose overall marks were less than 50% were rejected. The petitioner was amongst the 18 candidates accepted by the High Court. On the recommendations made by the High Court, the petitioner and other selected candidates were offered appointment vide orders dated 14.12.1999 (P-1).

[5] Somewhere in April, 2002, the infamous 'Ravi Sidhu Scam' regarding appointments made by Mr.Ravi Sidhu-the then Chairman of PPSC, to various services in return of huge sum of money as bribe, came into limelight. The State Vigilance Bureau lodged FIRs against Mr.Ravi Sidhu under the Prevention of Corruption Act, 1988 and crores of rupees in cash were statedly recovered from him and his relatives. These FIRs contained allegations of *quid pro quo* in selecting the candidates for appointment to PCS (Executive Branch and allied services) as well as PCS (Judicial Branch). It is relevant to mention that Mr.Ravi Sidhu remained Chairman of the PPSC from 1996 to 2002. The petitioner was also selected in the year 1998-99 during the period when Mr.Sidhu was at the helm of affairs of PPSC.

[6] The High Court took cognizance of the disturbing reports which appeared in the Press and Electronic Media and in a Full Court meeting held on 23.05.2002 a Committee of four Hon'ble Judges was constituted to look into those allegations. The Committee submitted its

report dated 30.05.2002 which the Full Court accepted on 12.08.2002, and made recommendations to terminate the services of the Judicial Officers of all the four batches pertaining to the years 1998, 1999, 2000 and 2001. The State Government implemented those recommendations and dispensed with the services of the Judicial Officers including that of the petitioner.

[7] Several writ petitions were filed challenging the termination of their services by the Judicial Officers as well as Officers of PCS (Executive Branch) but those were dismissed by a Full Bench of this Court vide common judgment dated 07.07.2003.

[8] The Full Bench decision dated 07.07.2003 was assailed before the Hon'ble Supreme Court by way of various SLPs which were allowed in part on 03.05.2006 in the case reported as Inderpreet Singh Kahlon and others versus State of Punjab and others, 2006 (11) SCC 356. The Hon'ble Supreme Court set-aside the Full Bench judgment dated 07.07.2003 and remanded the case back to this Court for fresh consideration with a direction to constitute two independent Scrutiny Committees, one relating to Executive Officers and other for Judicial Officers and undertake the exercise to segregate tainted from untainted candidates.

[9] So far as the Scrutiny Committee constituted to examine the cases of Judicial Officers was concerned, the majority of its members viewed that it was difficult to segregate the 'tainted' and 'untainted' candidates, hence it recommended to reiterate the earlier decision of dispensing with the services of Judicial Officers.

[10] The report of the Committee and the decision by the High Court thereupon was again challenged in a bunch of writ petitions filed by the affected Judicial Officers of different batches. All these writ petitions

were referred to a Full Bench of this Court. The Full Bench decided those matters vide judgment dated 27.05.2008 (Sirandeep Singh Panag versus State of Punjab and others, 2008 (4) SLR, 432 (P-9)). Those bunch of writ petitions also included CWP No.1626 of 2003 of 1998 batch Judicial Officers. The facts re: selection of 1998 batch have been stated in para Nos.4 & 5 of the reported judgment, besides the common facts pertaining to all the batches duly noticed in para Nos.10 to 15 of the decision. The Full Bench dealt with the administrative report of the Committee of Judges (on the basis of which the High Court had resolved to terminate the services of Judicial Officers) and came to the conclusion that the observations and findings given by a majority of its members in their report are based upon presumption and supposition. The Full Bench thus allowed the writ petitions in part in the following terms:-

“...44. For the reasons stated above, the petitions being, Civil Writ Petition Nos.1625, 1626, 1726, 2203, 2361, 3541, 3542, 10165, 12248 of 2003 and Civil Misc. Application No.7067 of 2008 in Civil Writ Petition No.12248 of 2003, filed by the petitioners pertaining to 1998 batch as also the petitions, being Civil Writ Petition Nos.16615, 16616, 16870, 16941, 16942, 16943, 17309, 17310 of 2002 and 2810 of 2003 filed by the petitioners relating to 1999 batch and the petitions, being Civil Writ Petition Nos.17961, 17963, 18506, 18950 and 20663 of 2002 and filed by the petitioners in respect of 2000 batch as also the petitions, being Civil Writ Petition Nos.17495 of 2002, 2011 of 2003 and 1972 of 2003 filed by Ms.Parveen Bali, S/Shri Avtar Singh Barda Mahesh Kumar, Gurkirpal Singh Sekhon, Tarantaran Singh Bindra, Ms.Manisha Jain, Balwinder Kumar, Harprit Singh and Rajwinder Kaur Bhatti (since deceased) in respect of 2001 batch succeed and are hereby allowed. Accordingly, impugned orders

dated 06.11.2002 and 27.09.2002 passed by the Governor of Punjab, whereby services of the petitioners in respect of 1996 batch and that of 1999-2000 batches respectively were dispensed with under Rule 7(2) of Part 'D' of the 1951 Rules and removal of their names from the Register of this Court under Rule 4 of Part D of the 1951 Rules on the basis of the recommendations made by the committee of the Hon'ble Judges of this Court and approved by a resolution in the Full Court meeting are set aside.

45. So far as Civil Writ Petition No.17347 f 2003 filed by petitioners, namely, S/Shri Anil Kumar Jindal, Ram Saran, Preetwinder Singh and Rajinder Bansal is concerned, the same has got no merit and it is hereby dismissed.

46. The petitioners in respect of 1998, 1999 and 2000 batches are ordered to be reinstated and the appointment letters earlier issued by the State Government to the petitioners, namely, Ms.Parveen Bali, Ms.Manisha Jain, S/Shri Avtar Singh Barda, Mahesh Kumar, Balwinder Kumar, Harprit Singh, Gurkirpal Singh Sekhon and Tarantaran Singh Bindra, except for Rajwinder Kaur Bhatti (since deceased), relating to 2001 batch are ordered to be restored and thereafter, respondent-High Court is directed to issue posting orders to all the petitioners pertaining to 1998-2000 batches and also of the eight petitioners aforementioned in respect of 2001 batch, within a period of three months from today. However, it is directed that the petitioners relating to 1998-2000 batches shall not be entitled to salaries for the period they remained out of job until the date of their reinstatement, but the said period shall be counted as the period spent on duties for the purpose of determining qualifying service for pension and other purposes, including grant of increments etc. Non-performance of duties for the said period shall not be treated as a break in service.....”

[11] The High Court challenged the Full Bench decision before the Hon'ble Supreme Court and its Civil Appeals [High Court of Punjab and Haryana, Chandigarh versus State of Punjab and others, (2010) 11 SCC 684] were disposed of vide order dated 18.03.2010 (P-10) with a direction that in order to work-out equities and to do complete justice between the parties, the 'tainted' candidates be separated from the 'untainted' candidates and those who were found to be 'untainted' could be adjusted in such a manner that seniority position of the fresh candidates appointed to the posts of Civil Judges on 14.03.2008 would be only partially affected. It was further directed that the candidates who were to be given re-appointment would be entitled to the period of service which was rendered by them, to count for the purpose of pension but they were not held entitled to any arrears of salary or financial benefits. These directions were issued by the Hon'ble Supreme Court following its previous decision rendered in Inderpreet Singh Kahlon's case (supra).

[12] The exercise of segregation between the 'tainted' and 'untainted' candidates has again been dealt with in *extenso* by the Hon'ble Supreme Court in the matter of PCS (Executive Branch) Officers vide judgment dated 23.05.2014 rendered in the case of Joginder Pal and others versus State of Punjab and others, (2014) 6 SCC 644. The Apex Court observed that “the issue of entire selection process having been vitiated would have arisen only if the findings of the Committee were that it was not possible to distinguish the cases of tainted from the non-tainted ones and there was a possibility that all of them would have got the benefit of wrong doings of Mr.Sidhu and his accomplices.”

[13] As regard to those candidates who were found hands in gloves with Mr.Sidhu and against whom FIRs were registered or were facing trial, the Hon'ble Supreme Court in Joingder Pal and others' case (supra) drew a clear distinction as may be seen from the following observations:-

“.... This argument is totally unimpressive and does not hold any water. Such candidates who were selected with unfair and illegal means cannot have the audacity to say that they should be reinstated in service and allowed to continue till their appeals are decided. In any case, having found that they are tainted candidates and their entry into public service was soiled, the decision to terminate their services becomes perfectly justified. In respect of these appellants, the High Court has found that FIRs have been registered against them and they definitely carry a trace, stain or blemish that they were tainted.....”

[14] From the narration of above events, what transpires is that so far as the 'untainted candidates' are concerned, whether selected to the PCS (Judicial Branch) or the PCS (Executive Branch etc.), all of them have been held entitled to reinstatement/re-appointment subject to the conditions imposed in Inderpreet Singh Kahlon's and Joginder Pal and others' cases (supra).

[15] We have heard learned counsel for the parties at a considerable length, gone through the record and the judgments cited above.

[16] The petitioner is 1998 batch Judicial Officer. His services were also dispensed with as a fall out of 'Sidhu scam'. He has not been named as an accused in any of the FIRs nor the High Court has placed any material on record to suggest that he was ever identified as a 'tainted' candidate. The record further reveals that though the petitioner approached this Court at the

“to await the decision of the Full Bench” and then disposed of on 09.01.2004 in terms of the first Full Bench judgment of this Court whereby all the writ-petitions challenging termination of services of Judicial or Executive Officers were dismissed.

[17] The record further reveals that after the matter was remanded by the Hon’ble Supreme Court in Inderpreet Singh Kahlon's case (supra) and the Full Bench of this Court on 27.05.2008 accepted the claim of 'untainted candidates', the petitioner immediately moved Civil Misc. Application No.12405 of 2008 to recall the earlier order and list his writ petition for hearing on merits.

[18] The above-stated application was dismissed on 13.09.2013 on the premise that the order dated 09.01.2004 disposing of the writ-petition had attained finality. The petitioner thereafter filed Review Application No.504 of 2014 which was allowed by this Court on 11.12.2015 and his writ petition was ordered to be posted for hearing.

[19] It could not be disputed by learned counsel for the High Court that since the petitioner’s name never figured amongst the 'tainted' candidates and all his colleagues of 1998 batch have been taken back and are in service, the petitioner is also entitled to seek parity and consequential reinstatement in service. His only plea is that the petitioner was born on 12.09.1962 and at this belated juncture, he is hardly left with any tenure to render the service.

[20] We have pondered over the submission made on behalf of the High Court and are of the view that since the petitioner is not to be blamed for any delay in adjudication of his claim, he cannot be denied the relief flowing from the binding decisions of the Hon’ble Supreme Court. The

petitioner had approached this Court in the year 2003 like his other batch mates. As soon as the matter was remanded by the Hon'ble Supreme Court in Inderpreet Singh Kahlon's case (supra) and the Full Bench decided in favour of candidates like him, the petitioner immediately sought revival of his writ petition. The fact that earlier his writ petition was disposed of or the said order has attained finality also does not dissuade us to accept his claim, for the fact-situation before the Hon'ble Supreme Court in Joinder Pal and others' case (supra) was also identical. The officers ordered to be reinstated in PCS (Executive Branch) had earlier lost their court-cases in the year 2003 but keeping in view the directions issued to constitute Scrutiny Committees in Inderpreet Singh Kahlon's case (supra) and the subsequent proceedings on judicial side, their claims were accepted by the Hon'ble Supreme Court.

[21] The fact that due to short duration of service left with, the petitioner would not be entitled to pension etc., are the incidence of service and it does not constitute a valid ground to deny him the relief to which he is entitled to as per the law laid down in the above-cited decisions.

[22] For the reasons afore-stated, the writ petition is allowed and the petitioner is directed to be taken back to Punjab Civil Services (Judicial Branch) on the same terms and conditions as imposed by the Hon'ble Supreme Court on his batch-mates in the judgment dated 18.03.2010 rendered in High Court of Punjab and Haryana, Chandigarh versus State of Punjab and others). While the petitioner would be entitled to the period of service rendered by him earlier, for the purpose of pension or other service benefits, he shall not be entitled to any arrears of pay or financial benefits consequent upon his reinstatement. His seniority shall also be fixed in accordance with para No.28 of the judgment of the Hon'ble Supreme Court

in the above-cited case.

[23] The needful shall be done within a period of two months from the date of receiving a certified copy of this order.

Ordered accordingly.

[SURYA KANT]
JUDGE

November 07, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No