

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11303 of 2011 (O/M)
Date of decision : 21.11.2016

Brij Mohan

..... Petitioner (s)

Versus

Punjab State Power Corporation Limited and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Bansal, Advocate, for the petitioner.

Brig. B.S. Taunque, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner has moved this Court under Articles 226/227 of the Constitution of India for issuance of a writ of certiorari for quashing the order dated 4.1.2012 (Annexure-P-7), whereby a cut of 20% in the pension of the petitioner has been imposed for whole life.

The petitioner was working as a Head Cashier in the Eastern Sub Division under the control of the Superintending Engineer, Distribution, Sub Urban Circle, Amritsar. On 29.6.2000, the petitioner had gone to State Bank of Patiala, Amritsar Branch for withdrawal of salary of the staff for the month of June, 2000. He withdrew a sum of Rs. 10.49 lakhs from the said bank. At that time, some unidentified persons came there and said to him that some currency is lying on the floor and when the petitioner tried to pick up the same, they decamped with the salary amounting to Rs. 10.49 lakhs from the bank premises itself. The petitioner accordingly

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lodged FIR No. 115 dated 29.6.2000, under Section 380 IPC at Police Station 'B' Division, Amritsar. The department however initiated a departmental inquiry against the petitioner, which culminated in the chargesheet No. 1495 dated 11.9.2001. The petitioner in the meanwhile retired from service on 31.3.2002 on attaining the age of superannuation. It also comes out that the inquiry was not concluded for next six years. It also comes out that initially Er. M.S. Rataul, Additional Senior Engineer, West Division, was appointed as Inquiry Officer, vide order dated 28.6.2002. Thereafter, Er. Jagjit Singh Suchu, Senior XEN was appointed as Inquiry Officer in place of Er. M.S. Rataul, vide order dated 16.11.2005 (Annexure-R-3). Er. Jagjit Singh Suchu, Senior XEN completed the inquiry on 23.6.2006 and submit the report. Consequently, the copy of the inquiry report was sent to the petitioner on 11.7.2006, vide letter Annexure-P-3 to submit his explanation to the said report, failing which necessary action will be taken. Annexure-P-3 apparently is a show cause notice before passing the punishment order. The petitioner thereafter submitted the reply to the said inquiry report raising some objections (Annexure-R-8). It comes out that thereafter, vide order dated 26.6.2008 (Annexure-R-4), Er. Raghbir Singh Senior XEN, Jandiala Guru Division was appointed as Inquiry Officer in place of Er. Jagjit Singh Suchu. Er. Raghbir Singh, Senior XEN, did not conduct inquiry afresh and submitted the following report on 20.3.2009 (Annexure-R-9) :-

“Sub : Departmental enquiry against Sh. Brij Mohan Cashier
Charge Sheet No 1495 dated 11.9.01.

Reference : Your Office Memo No. 114 dated 5.2.09.

It is submitted that vide your Office Order No. 379
dated 18.11.06 Er. Jagjit Singh Suchu was appointed as an

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Enquiry Officer in the above mentioned case. The enquiry report has been submitted by him by your office wherein the responsibility of the above employee has been clearly given. The undersigned is entirely in agreement with the enquiry report conducted by Er. Jagjit Singh Suchu. This case may kindly be taken into consideration with the above mentioned enquiry report.”

It comes out that as no action was taken, the petitioner served a legal notice dated 18.2.2011 (Annexure-P-6) upon the respondents and filed the unamended writ petition in this Court on 30.6.2011. In the said writ petition, the notice of motion was issued and the reply was filed on 25.1.2012. However, in the meanwhile, a personal hearing was given to the petitioner on 3.1.2012 and order of punishment endorsed on 4.1.2012 (Annexure-P-7) has been passed.

In the reply, the respondents have supported the inquiry report. It is stated that the petitioner was guilty of negligence in the looting of the money. It was stated that he had gone to the bank to collect the cash. He did not inform the SDO and did not take any escort for the safety of cash. He himself lodged FIR and did not mention his name in the FIR. The departmental inquiry was conducted in accordance with law. Personal hearing was given and thereafter the order of punishment was passed. It is stated that due to the change of the inquiry officer, the delay has occurred. The petitioner did not take permission from the SDO to collect heavy amount of Rs. 10.49 lakhs. It was stated that Er. Raghbir Singh, vide letter dated 20.3.2009, agreed with the findings recorded by the inquiry officer Er. Jagjit Sinch Suchu. The petitioner caused financial loss to the board. Hence, the action was correctly taken.

I have heard the learned counsels for the parties and have also

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carefully gone through the file.

The perusal of the documents on file shows that the petitioner was working as a Head Cashier. Therefore, it was his duty to collect the cash from the bank for disbursement of the salary to the staff. Admittedly, he visited the bank alongwith a cheque to collect the cash for salary of the staff for the month of June, 2000. In the bank, he was tricked by the robbers and money was snatched from him. The stand of the respondents is that he should have informed the SDO and should have taken the escort alongwith him. At that time he was accompanied by a driver only. The petitioner had taken the stand that the robbery was committed in the bank building itself where there was adequate security.

I am of the view that the charges from its face is just an eye wash. Even if, the petitioner had taken the escort, the armed-men are not allowed inside the bank building and they are required to wait outside the bank. In the bank itself, there is sufficient security. The robbery was committed inside the bank itself after the withdrawal of the cash. Therefore, the presence of the escort would not have made any difference at that time. In the present case, the inquiry was started, the chargesheet was served in the year 2000.. The petitioner retired from service on 31.3.2002 on attaining the age of superannuation. The departmental inquiry was expected to be concluded expeditiously. However, it comes out that after the change of the earlier inquiry officer, Er. Jagjit Singh Suchu submitted the inquiry report on 23.6.2006 i.e. more than five years after the chargesheet was served. When the petitioner was directed to submit the explanation to the inquiry report, he submitted reply to the same (Annexure-R-8), raising certain objections. The department was required to consider

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the said objections and either accept or reject the same. However, it appears that the department probably found some merits in the objections and then appointed another inquiry officer, namely, Er. Raghbir Singh. The fact that after the conclusion of the inquiry and submission of inquiry report, another inquiry officer was appointed, goes to show that the department wanted the inquiry officer to conduct fresh inquiry. However, what the inquiry officer did is to just address a letter, reproduced above, to state that he agree with the inquiry conducted by his predecessor Er. Jagjit Singh Suchu.

I am of the view that the said letter is not a fresh inquiry and does not amount to an inquiry at all. While passing the impugned order and considering the inquiry report, the following observations were made :-

“ Reply to the above charge sheet was submitted by him (Sh. Brij Mohan Retired) Head Cashier. Keeping in view the reply submitted by the employee and the comments submitted by the Sub Divisional Officer and in accordance with the rules and regulations. Er. Jagjit Singh Suchu, Sr. XEN (Operation) Jandiala Guru Division was appointed Inquiry Officer to hold inquiry in this case who conducted an impartial inquiry into the case. The Inquiry Officer has held Sh. Brij Mohan Retired Head Cashier responsible in this case. A copy of the enquiry report was sent at the residential address of Sh. Brij Mohan by this officer to which he has submitted his objections. Whereupon Er. Raghbir Singh Sr. XEN Jandiala Guru was appointed to again conduct an inquiry in this case who has communicated his agreement with the earlier enquiry vide his letter No. 2379 dated 20.3.2009. Thereafter, Sh. Brij Mohan Retired Head Cashier was given an opportunity to come present in the office of the undersigned vide registered letter no. 1909 dated 17.11.2011, in response he appeared in person on 3.1.2012 and he was given personal hearing.”

It goes to show that the inquiry report submitted by Er. Jagjit

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Singh Suchu, which was agreed upon by Er. Raghbir Singh, was relied upon by the department. After the conclusion of the earlier inquiry and submission of inquiry report, new inquiry officer was required to conduct a fresh inquiry. It appears that the punishing authority i.e. Deputy Chief Engineer, Operations, Sub Urban Circle, Amritsar, is probably not aware about the rules and regulations, about appointment of inquiry officer and procedure for punishment in passing the punishment order. When the inquiry officer Er. Jagjit Singh Suchu had submitted the inquiry report and the petitioner had submitted the reply, the same was to be considered by the punishing authority and not by another inquiry officer. The punishing authority could disagree with the explanation and pass the punishment order after giving personal hearing and if it found some merits in that explanation, then the appointment of fresh inquiry officer means that the fresh inquiry is to be conducted, which was never done in the present case. However, the passing of punishment order after considering the inquiry conducted by Er. Jagjit Singh Suchu is patently illegal. Even otherwise, the charges against the petitioner are that he did not take escort with him while going to collect the cash from the bank. It never came in the inquiry that the escort was readily available with Punjab State Electricity Board (now succeeded by Punjab State Power Corporation Limited), which could be taken by the head cashier to collect the cash. Assuming that the escort was available and would have been taken by the petitioner, it would not have made any difference. At the cost of repetition, it is again stated that the armed-men are not allowed inside the bank premises and they are required to wait outside the bank. The present robbery was committed inside the bank building itself. Therefore, the presence of the escort outside the bank

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would not have made any difference. The petitioner was tricked by the robbers. The impugned order was passed after about eleven and half years of occurrence and about eleven years after the chargesheet was served and about little less than nine years of the retirement of the petitioner. The departmental inquiry, if any, was required to be concluded expeditiously, particularly when the retiral benefits of the petitioner were apparently kept on hold.

For the reasons recorded above, the impugned order dated 4.1.2012 (Annexure-P-7), imposing a cut of 20% in the pension of the petitioner for whole of the life is quashed. The present writ petition is allowed. The respondents are ordered to grant complete pension to the petitioner alongwith interest at the rate of 9% per annum on the arrears within three months from the date of receipt of certified copy of this judgment.

The present writ petition is allowed.

(KULDIP SINGH)
JUDGE

21.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes