

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13890 of 2012
Reserved on:31.03.2016
Decided on :12.04.2016

Parveen Kumar

... Petitioner

Versus

Registrar, Cooperative Societies & others

... Respondents

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

Present : Mr.Manjit Singh Sarao, Advocate, for the petitioner.

Mr.L.S.Virk, Addl.AG, Punjab.

Mr.G.S.Chinna, Advocate, for respondents No.2 & 3.

G.S. Sandhawal, J.

Petitioner challenges the order dated 09.10.2009 (Annexure P5), passed by respondent No.3, whereby his service as Peon in the Account's Section-2 with the respondent-bank, was terminated, on account of misconduct of being drunk, as per the proposed show cause notice dated 18.06.2009. Said order has been upheld in appeal on 11.01.2010 (Annexure P7) by the Managing Director and thereafter, in revision, on 17.08.2010 (Annexure P10) by respondent No.1, Registrar, Cooperative Societies and are also subject matter of challenge.

Notice of motion was issued, only on the issue of quantum of punishment awarded to the petitioner for his alleged indiscipline.

Counsel for the petitioner has relied upon the judgment in **Hari Singh Vs. State of Punjab & another 2004 (2) RSJ 693,**

Gulab Singh Vs. Maharshi Dayanand University, Rohtak & others 2005 (1) SCT 111 and **The State of Punjab Vs. Parkash Chand 1992 (1) PLR 36**, to submit that the petitioner had 11 years of service and that he was on leave on the date of the incident and had only gone to the bank to get his bank passbook to withdraw cash.

Counsel for the respondents, on the other hand, submit that it was after proper enquiry the said order had been passed and the petitioner had been taken for medical examination but he had run away from the hospital and therefore, the fact that he was in drunken condition has not been denied. The defence, itself, taken was that he had gone to a wedding and had only come to the bank to take money and therefore, no fault can be found in the order of punishment. It is also further submitted that even vide letter dated 17.07.2009 (Annexure R2/1), addressed to the Managing Director, the said fact is admitted regarding his drunken state, wherein also, similar defence has been taken that such a mistake shall not be committed in future. Further reference is made to the 15 punishments which had been imposed upon the petitioner regarding absence from duty and for other misconducts, from the period 29.09.2001 till 28.05.2009, details of which have been given in the written statement.

It is, accordingly, submitted that keeping in view the said background, it is not the case that the punishment is shocking

and disproportionate, as such. Reliance has been placed upon the judgment of the Apex Court in **Devendra Swamy Vs. Karnataka State Road Transport Corporation 2002 (9) SCC 644** and a Division Bench judgment this Court in **Surinder Sharma Vs. Central Administrative Tribunal & others 2008 (4) RSJ 622**. It is, accordingly, submitted that the order is not liable to be interfered, in the facts and circumstances of the present case.

A perusal of the punishments which have been reproduced in the written statement would go on to show that apart from being absent on various dates, for which, stoppage of annual increments have repeatedly been imposed upon the petitioner, with cumulative effect, he had also been issued warnings to be careful as he had misbehaved with the employees and causing dent with the image of the bank. Another charge-sheet had also been issued to him for humiliating and abusing his Assistant Manager, which was kept pending due to his termination order. Similarly, in an enquiry, it was found that he had fought with the Manager and only on account of due apology he had been reinstated and issued a warning not to do such an act, in future. Similar complaint had also been received from other employees regarding his misconduct, for which, an enquiry had been conducted and even a show cause notice had been issued on 28.08.2003 for terminating his service. Again, the same was pending as the dismissal order had already been passed.

Keeping in view the cumulative background and the fact that the petitioner, instead of being an asset to the bank, is only a difficult employee to handle, this Court does not think that it is a fit case to interfere with the quantum of punishment also, as it is not so shocking and disproportionate. The incorrigibility of the petitioner is apparent on the face of the record and therefore, the punishment which has been imposed is not harsh, as such, which would warrant interference. It is settled law that it is only in rare cases where punishment order is shockingly disproportionate, directions can be issued to the Appellate Authority to reconsider the same. The petitioner, being a Peon with the bank and having misbehaved with his senior under the influence of liquor, as such, would have shocked the customers who had come to the bank, even if he was not on duty, at that point of time. In such circumstances, this Court does not think that it is a fit case for interference, on the issue of quantum of punishment also.

The judgments in **Hari Singh's and Gulab Singh's cases** (supra) pertain to the issue where the Appellate Authorities had rejected the appeal in terse two line orders and therefore, keeping in view the regulations, the matter was remanded to the Appellate Authority.

In **Parkash Chand's case** (supra), pertaining to the Punjab Police Rules, 1934, the Division Bench came to the conclusion that the punishing authority had not recorded any

finding amounting to the grievous act of misconduct, resulting in punishment of dismissal. The same was the requirement under the Rules and in such circumstances, the appeal of the State had been dismissed against the judgment of the District Judge, Patiala, wherein a finding had been recorded that in the absence of any such misconduct depicted which was grave and in terms of the Rule 16.2, the termination order could not have been passed. Therefore, the said judgment is not applicable, in the facts and circumstances of the present case.

Keeping in view the above discussion, this Court is of the opinion that there is no scope for interference in the impugned order. Accordingly, the present writ petition is, hereby, dismissed.

APRIL 12, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE