

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

CWP No.11033 of 2016

Date of decision: 30.5.2016

Sher Singh @ Shamsher Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Sohan Singh Rana, Advocate,
for the petitioner.

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. There were two FIRs against the petitioner, a patwari. He was charged for commission of offences under Sections 420, 466, 467, 468, 471 and 120-B IPC. Both the FIRs involved Jamabandis in which he had a foul hand to play as a patwari during the course of his official duties. One of the FIR has led to acquittal. The other FIRs led to acquittal by compromise in Court. The employer State was not a complainant against the petitioner but since the charge involved his duties as a government servant he was proceeded against departmentally by issuing him a charge-sheet. These proceedings have resulted in an enquiry report which is against the petitioner and the charge is proven qua the role played regarding jamabandis.

2. Learned counsel argues that on the same set of circumstances, the petitioner had been convicted by the trial Court and on the basis of compromise reached with the complainant party he was acquitted in appeal by this Court. Therefore, it is argued that the

department could not legally proceed against the petitioner on the same set of charges as were in the trials.

3. This argument has to be noticed only to be rejected. It cannot be said that the departmental proceedings were entirely on the same set of circumstances as the employer was under an obligation to look at the conduct of the petitioner in the making of the Jamabandis, which is vital revenue record on which valuable rights in property are based. Criminal trials are based on principles of proof beyond reasonable doubt. However, in a domestic enquiry proceeding, a finding can well be recorded on preponderance of probabilities based on evidence tendered. It has been reasonably found that the petitioner, a patwari, was guilty of fudging Jamabandis to give undue benefit to private persons. If the department is of the view that a corrupt patwari should not remain on its rolls of service fixing revenue record then I see no palpable error in initiating and concluding domestic inquiries against the petitioner in which he has been found guilty of major misconduct and the dismissal order which has followed cannot be said to be unjustified, illegal or arbitrary. I find no valid ground to tinker with the findings arrived at in the enquiry. This Court does not sit in appeal against enquiry proceedings and orders of punishment. The punishment imposed is appropriate to the charges. A patwari is after all a custodian of revenue record and therefore, his case has to be viewed with greater circumspection, care and caution by the Court while considering interference in the discretionary power exercised under Article 226 of our Constitution. I would therefore not think it appropriate to interfere in this matter in exercise of secondary

review jurisdiction of administrative action and would dismiss the petition in limine not finding any merit in it warranting interference.

(RAJIV NARAIN RAINA)
JUDGE

30.5.2016
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