

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

CWP No.15574 OF 2014
DATE OF DECISION : 27th MAY, 2016

Sarita Chaudhary

.... Petitioner

Versus

State of Haryana & another

.... Respondents

CWP No.15508 OF 2014

Sumedha Taneja

.... Petitioner

Versus

State of Haryana & another

.... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

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Present : Mr. R. K. Malik, Senior Advocate with
 Mr. Devender Punia, Advocate for the petitioners.

Mr. M. S. Sidhu, Addl. A. G. Haryana.

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RITU BAHRI, J. (ORAL)

Challenge in above mentioned petitions is to the orders dated 05.08.2011 and 22.12.2011 (Annexure P-8) vide which 1% cut has been imposed on the pension of Sarita Chaudhary and Sumedha Taneja and further recoveries of amount of ₹10,25,638/- and ₹6,32,154/-, respectively have been ordered to be made from their retiral benefits.

Facts of the case are being taken from CWP No.15574 of 2014.

The petitioner Sarita Chaudhary was chargesheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 on 13.02.2009 (Annexure P-1). The chargesheet has been issued under Rule 2.2(b) of the CSR Volume II as she had retired in the year 2008. The petitioner gave her reply to the chargesheet (Annexure P-2). The allegation against the petitioner was that she has purchased of Gas Chulla, Lighter, Pipe, Regulator and Burners from the Khadi & Village Industries Board (in short, Khadi Board), which was not an approved source and the purchases has been made on higher rates. The Khadi Board was declared as approved source by the State Government vide letter dated 27.09.1984 (Annexure P-3). The Khadi Board as per the writing dated 01.02.2007 (Annexure P-4) has given the rates of the items which the petitioner purchased and as per Annexure P-4 the rates were valid upto 31.03.2007.

An Enquiry Officer was appointed who gave his report dated 09.07.2010 (Annexure P-5) and thereafter the petitioner submitted her detailed reply to the enquiry report (Annexure P-6). A show cause notice was issued on 06.09.2010 (Annexure P-7) and thereafter impugned punishment of recovery of ₹10,25,638/- and 1% cut into pension was imposed vide order dated 05.08.2011 (Annexure P-8).

Mr. R. K. Malik, Senior Advocate for the petitioner refers to the judgment dated 02.08.2013 passed by this Court in the case of ***Suman Nain versus State of Haryana*** in ***CWP No.6315 of 2012***, wherein Ambala Central Cooperative Consumer Store was alleged to be an approved source by the Government. In this case learned Single Judge, in view of letter dated 31.01.2008, came to the conclusion that these purchases have been made from approved source. This writ petition was allowed vide judgment

(Annexure P-10) and was upheld by the Division Bench of this Court vide judgment dated 26.04.2014 (Annexure P-12). Reference was made to letter dated 15.10.2007 which was issued by the Deputy Commissioner, Ambala to the District Education Officer, whereby purchase from Ambala Coop. Societies Ltd. was declared to be an approved source and no quotation was required for purchasing items from the agency. Vide letter dated 31.01.2008 the Director Supplies and Disposal, Haryana has declared the Ambala Central Co-operative Consumer Store, Chandigarh and Faridabad as non-approved stores for supply of Gas Chulha/Stove, would not have any relevance as this letter would be prospective. The purchases made pursuant to letter dated 29.10.2007 were held to be from an approved store and writ petition was allowed. The impugned punishment was set aside. However, the liberty was granted to the Department to pass fresh order in accordance with law after affording opportunity to the petitioner. After allowing the writ petition in ***Suman Nain's*** case (supra), another writ petition bearing ***CWP No.10084 of 2016*** titled ***Karan Singh versus State of Haryana*** was also allowed in terms of ***Suman Nain's*** case (supra).

In the present case, the Khadi Board was declared as an approved source vide letter dated 27.09.1984 (Annexure P-3) and at the time of making purchases the rates have been sent by the Khadi Board vide Annexure P-4 and these rates were valid till 31.03.2007. The purchases were made before 2007.

Learned counsel for the petitioner has submitted that the purchases in the case of Karan Singh Versus State of Haryana, have been made by the petitioner from this very store i.e. Khadi Board at the same point of time. Once the said store had been granted approval, the petitioners

cannot be punished on the ground of making purchases from the said store. Moreover, as per the letter dated 15.10.2007 (Annexure P-9), it is clear that while making the purchases from approved source, no quotation was required to be made from the said agency.

The only ground taken by the respondents in the written statement is that vide letter dated 14.02.2008 issued by Financial Commissioner & Principal Secretary to Government of Haryana, Industries, Department, Chandigarh, the Khadi Board was approved for handmade paper items manufactured by this unit. While filing the written statement carelessly letters Annexure R-2 and R-3 dated 30.04.2001 have been placed on record, which do not relate to the Khadi Board. Hence they do not have any relevance for deciding this writ petition.

This petition is allowed in terms of judgment dated 02.08.2013 passed by this Court in CWP No.6315 of 2012 titled Suman Nain Versus State of Haryana.

27TH MAY, 2016
'raj'

(RITU BAHRI)
JUDGE