

CWP No19810 of 2016

#1# Manoj Kumar
2016.10.17 17:23
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19810 of 2016

Date of decision: 07.10.2016

Manjit Singh

....Petitioner

Vs.

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. S.P. Soi, Advocate for the petitioner.

Jaswant Singh, J

Petitioner, who was serving as Inspecting Officer in the Co-operative House Building Societies Ltd (Housefed), Punjab (for short "Building Society"), has invoked the jurisdiction of this Court by way of seeking a writ of Certiorari for quashing the impugned dismissal order dated 11.8.2016 (P.15) and the Enquiry Report dated 18.5.2016 (P.6); with a further writ of Mandamus directing the respondents to reinstate him with full back wages.

It is argued on behalf of the petitioner that a wholly belated incident more than 12 years has been made a subject matter of inquiry, which led to the dismissal of the petitioner and as such the same is wholly unsustainable in law and is liable to be set aside.

Heard learned counsel for the petitioner and perused the paper book with his able assistance.

Undisputedly, the petitioner was charge sheeted for the omission and commissions while working as Secretary of Building

Society for the period 2002-03 and 2003-04 under Rule 18 of Service Rules of the Punjab Housefed Service Rules 2001 (for short "Rules of 2001") read with Rule 8 of Punjab Civil Service (Punishment and Appeal) Rules 1970 by the Managing Director vide charge memo dated 15.1.2016 (P.2) for the alleged charges of financial irregularities and embezzlements.

Consequent upon issuance of charge sheet, the District Manager, Housefed Mohali was appointed as Inquiry Officer vide order dated 18.2.2016 (P.3), who submitted his report dated 18.5.2016 (P.6) whereby all the charges were proved. Thereafter, a show cause notice dated 15.6.2016 (P.6-A) was issued by the Punishing Authority to the petitioner, which was replied on 09.7.2016 (P.12) and after considering the same, the impugned order (P.15) of dismissal was passed.

As per Appendix B attached to the Rule 3 (I) of the 2001 Rules stipulates as under:

"punishing authority" means as mentioned in annexure 'B'.

Further, the relevant part of the Appendix B reads as under:

"Sr. No.	Name of Post	Appointing and Punishing Authority	Appellant Authority Rule 3 (d)
17.	Inspecting Officer	M.D./Appoint authority in his parent deptt."	BOD/As per parent Deptt. Rules

Although, in para 11 of the writ petition, the petitioner has claimed that there is no other equally efficacious or speedy alternative remedy available except the present writ petition but the same is absolutely incorrect. As a matter of fact, a perusal of clause 17 of Appendix B of 2001 Rules, it is clear that the alternative & efficacious remedy of statutory appeal is available to

the petitioner, which he has deliberately not chosen for the reasons best known to him.

Consequently, this writ petition is dismissed with liberty to the petitioner to invoke the remedy of appeal available under 2001 Rules, if so advised.

October 7th , 2016
manoj

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No