

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21763 of 2014

DATE OF DECISION: FEBRUARY 25, 2016

CHANDIGARH ADMINISTRATION ...PETITIONERS
THROUGH SECRETARY TRANSPORT, CTU & OTHERS
VERSUS

KAMAL PARSHAD & OTHERS ...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE RAJ MOHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. PREETWINDER SINGH DHALIWAL, ADVOCATE
& MS. KOMAL BIR GILL, ADVOCATE
FOR THE PETITIONERS.

MR. MANISH DADWAL, ADVOCATE
FOR RESPONDENT NO.1.

M. JEYAPPAUL, J.

1. The charge against respondent No.1 is that he produced false house rent receipts to show that he was residing at H.No.2171, Sector 40-C, Chandigarh from April, 1988 to August, 2008 and claimed house rent allowance while he was actually residing at H.No.764, Sector 16-D, Chandigarh.

2. During the course of enquiry, it came to light that H.No.764, Sector 16-D, Chandigarh was allotted to father of respondent No.1 who was a Government servant whereas, respondent No.1 chose to produce fake house rent receipt as through he was residing at H.No.2171, Sector 40-C, Chandigarh owned by one Ram Saran. Findings were recorded against him in the enquiry and as a result of which he was dismissed from service.

Respondent No.1 challenged his dismissal. At the intervention of the Court he was reinstated in service. Exercising the option for fresh departmental enquiry, the Department again proceeded against him. Respondent No.1 was again found guilty and was punished with stoppage of two increments with cumulative effect, treating the intervening period from the date of dismissal to the date of joining as leave without pay.

3. Respondent No.1 challenged the outcome of the second round of enquiry proceedings before the Tribunal who having found that respondent No.1 was entitled to claim House Rent Allowance when he was actually residing with his father as per the Rules, ignored the fabricated receipts produced by respondent No.1 for claiming House Rent Allowance and set aside the enquiry proceedings which culminated in the above penalty.

4. Learned counsel appearing for the writ petitioner submitted that the Tribunal failed to notice that respondent No.1 produced fake and fabricated rental receipts as though he was residing at H.No.2171 situated in Sector 40-C, Chandigarh owned by one Ram Saran. It is his further submission that even if it is construed that he was entitled to House Rent Allowance as he was residing with his father in the house which was allotted to his father, production of fabricated document was not expected from a Government servant.

5. *Per contra*, learned counsel appearing for respondent No.1 vehemently submitted that as per the Rule, the writ petitioner was entitled to reside with his father in the house allotted to him or was owned by him.

Inasmuch as he was entitled to claim House Rent Allowance, the alleged production of such a certificate pales into insignificance. He also submitted that respondent No.1 never produced such a fake certificate nor had he suffered any supplementary statement during the course of second round of enquiry admitting production of such fake rental receipts.

6. The gravamen of the charge levelled against respondent No.1 was that he having produced fake and fabricated rental receipt from a person who was not the owner of the house misled and cheated the Department, which act would amount to unbecoming of a public servant. The loss occasioned to the Government on account of production of such a certificate is secondary. The question is whether respondent No.1 was honest in claiming House Rent Allowance by producing rental receipt from a genuine source. Very unfortunately, respondent No.1 denies not only the production of such a fake rental receipt from a spurious source, but also the supplementary statement suffered by him admitting the production of such certificate during the course of enquiry. The original records produced by the writ petitioner establishes that respondent No.1 has produced a fake and fabricated rental receipt from one Ram Saran who was not the owner of H.No.2171, Sector 40-C, Chandigarh. Respondent No.1 has categorically admitted in his supplementary statement suffered during the course of second round of enquiry that he did produce such a rental receipt at the time when he originally claimed house rent allowance from the writ petitioner. Such a rental receipt maintained during the regular course of official transaction and the supplementary statement suffered by respondent No.1

during the course of enquiry cannot at all be denied by respondent No.1.

7. The writ petitioner has convinced the Court that though as per Rule respondent No.1 was entitled to claim House Rent Allowance as he allegedly resided with his father, he had produced fake rental receipt from a person who was not the owner of the house and thereby, he misled and cheated the Department.

8. It is a well settled proposition of law that the Court shall not interfere with the findings of enquiry and the punishment awarded therein, unless the due procedures and the principles of natural justice were not adhered to by the Department during the course of enquiry and the punishment was disproportionate, so much so, it shocked the conscience of the Court. In our considered view, the Tribunal has unnecessarily interfered with the well considered finding and the proportionate punishment awarded to respondent No.1.

9. In view of the above, while upsetting the impugned order passed by the Tribunal, the writ petition stands allowed.

(M. JEYAPPAUL)
JUDGE

February 25, 2016
Gulati

(RAJ MOHAN SINGH)
JUDGE