

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

CWP No. 5577 of 2015

Date of Decision: 02.12.2016

SATYAPAL SINGH

... Petitioner

VS.

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Gaurav Mohunta, Advocate,
and Mr. Gaurav Gogna, Advocate,
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana

KULDIP SINGH, J. (Oral)

The petitioner has preferred the present writ petition filed under Articles 226/227 of the Constitution of India for issuance of writ of Certiorari for quashing the charge sheet dated 23.08.2011 (*Annexure P- 7*), enquiry report (*Annexure P-9*) and punishment order dated 11.11.2014 (*Annexure P-1*) vide which the petitioner has been held responsible for causing loss to the respondent-department to the tune of ₹ 5,02,321/- and recovery of said amount alongwith a cut of 5% on the pension of the petitioner for 5 years has also been ordered on account of theft of computer and allied accessories.

It comes out that the petitioner was transferred to the Industrial Training Institute, Panipat, Haryana as Fitter Instructor in the year 2003. He was given additional charge of the Store in the year 2004. He was superannuated on 31.01.2013. During his tenure, 4 thefts took place in which certain computer and computer accessories were stolen and a charge sheet (*Annexure P-7*) was served upon him leveling the allegations. Thereafter,

CWP No. 5577 of 2015

regular enquiry was held and enquiry report (*Annexure P-9*) was submitted wherein the petitioner was held responsible for causing loss to the tune of ₹ 5,02,320.80 paisa. It was also found that some other functionaries namely Dinesh Mehta, Principal; Suraj Bhan, Office Superintendent; Surjeet, Chowkidar were also held responsible and their responsibilities were also fixed in terms of money. Once, the petitioner was held responsible in pursuance of said enquiry report, after issuing show cause notice and opportunity of personal hearing was also granted to the petitioner and thereafter impugned order dated 11.11.2014 (*Annexure P- 1*) was passed vide which a recovery of ₹ 5,02,321/- was ordered from him and 5% cut in his pension for 5 years was also imposed.

I have heard learned counsel for the parties and have carefully gone through the file.

Learned counsel for the petitioner has taken this Court to the enquiry report (*Annexure P-9*) to point out that some other officials were also held responsible for the said theft. The reference is also been made to the statement wherein it is stated that only two thefts took place during the tenure of the petitioner and various reasons have sought to be put forward on the basis of which the charge could not be handed over in time to the successor i.e. Sh. K.D. Sharma. It is stated that Principal was also held responsible.

It is further argued on the basis of the same facts, an FIR was registered in which the petitioner has since been acquitted. The enquiry report (*Annexure P-9*) which is running in 112 pages shows that facts have been thoroughly discussed and examined exhaustively.

CWP No. 5577 of 2015

Now, the question would arise whether this Court can substitute the findings recorded by the Enquiry Officer with its own findings? I find the reply in negative. The matter has been dealt with by the Enquiry Officer and merely on the basis of some suppositions, surmises and conjectures, the findings of the Enquiry Officer cannot be disturbed. The department had also agreed with the findings of the Enquiry Officer.

The learned counsel for the petitioner has also argued that the penalty of 5% cut in the pension for five years is very harsh.

I am of the view that keeping in view the facts and circumstances, it is for the department to see as to what penalty is to be imposed on the delinquent employees. Moreover, 5% cut in pension for 5 years cannot be called harsh.

It being so, no ground to interfere with the charge sheet dated 23.08.2011 (*Annexure P-7*), enquiry report (*Annexure P-9*) and punishment order dated 11.11.2014 (*Annexure P-1*), is made out, therefore, the present writ petition stands dismissed

December 2, 2016

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No