

The petitioner-Dr. Nirmal, Ayurvedic Medical Officer (Retired), has been awarded punishment of 5% cut in her pension, vide impugned order dated 1.12.2014 (Annexure-P-5). Her appeal against the punishment order has been dismissed, vide order dated 15.7.2015 (Annexure-P-8). The charges against the petitioner are that one firm M/s Dhanwantri Herbals, belongs to her brother, wherein her brother's wife and sons are the partners. The perusal of the charges shows that while holding the charge of Ayurvedic Medical Officer, she was also a DDO of District Ayurvedic and Unani Officer, Amritsar. She dealt with the matter of said firm M/s Dhanwantri Herbals, belonging to her brother, in which her brother's wife and sons are partners. She sent different proposals to the Director Ayurveda regarding issuance of non conviction certificate, issuance of permit for allotment of 35 kilograms medicinal opium, issuance of performance certificate and proposal for renewal of the licence, to the Director, who acting on her recommendations, accordingly issued the said

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certificates and renewed the licence. It is further alleged against her that she also issued the inspection report of the said firm, stating that the performance of the company is satisfactory and its licence may be renewed. Accordingly, the licence was renewed. Later on, the Central Bureau of Investigation (Special Crime 3), New Delhi, started the investigation regarding the misuse of the medicinal opium and it was found that the present petitioner was one of the members of the committee that inspected the premises of her brother Jagdish Parshad Singh, who was the partner of firm M/s Dhanwantri Herbals. She inspected the stock register, entries of opening of opium packets, verification of stock, drugs, made in register etc. She also supervised the work of opening of opium packets and mixing this opium in the raw material. She was also sending quarterly report regarding the said firm to the directorate. She did not inform the higher authority that this firm belongs to her brother and failed to maintain absolute integrity and violated Rule 4 (3) of the Government Employees (Conduct) Rules, 1966 (in short 'Rules of 1966'), which prohibits the Government employee from dealing with any matter or give or sanction any contract if he/she or any member of his/her family is interested in such matter or contract in any other manner and the Government employee shall refer every such matter or contract to his/her official superior.

The contention of the learned counsel for the petitioner is that the brother of the petitioner and his family does not fall within the definition of 'family' as defined in Employees (Conduct) Rules, 1966. It is further contended that the punishing authority as well as the appellate authority passed the stereotype order, in which no reason has been given.

I have considered the chargesheet, inquiry report and the

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impugned orders.

It comes out that the petitioner does not dispute that the said firm belongs to her brother, in which her brother's wife and sons of her brother are the partners. She dealt with various matters of the said firm. She even recommended the issuance of permit for allotment of 35 kilograms medicinal opium to the said firm and the opium was regularly supplied for medical purpose to the said firm. She recommended renewal of the licence and also submitted the performance report, without bringing it to the notice of the higher authorities that the said firm belongs to her brother and his family. When she was dealing with the matter, the office was not supposed to check her service record whether any of her near relations has any concern with the said firm or not. Rather, she was required to disclose her relationship with the partners of the said firm, which she did not do. She kept on dealing with the matter of the said firm and passed the favourable orders in respect of the said firm. She even supervised the mixing of opium in the ayurvedic products being the member of the committee and did not claim to have disclosed to any member of the committee or the higher authority that the said firm is owned by her brother and his family members. It being so, in my view, this is a grave misconduct on the part of a public servant.

In this case, 5% cut has been imposed in the pension of the petitioner. Under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II, Chapter-II, the Government, in case of a grave misconduct, can impose a cut in the pension permanently or for a specified period and can also order recovery of pecuniary loss caused to the Government. In the present case, the Government has exercised the first option of imposing a cut of 5% in the

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pension of the petitioner permanently.

I am of the view that the conduct of the petitioner, from its face, is unbecoming of a public servant. The relationship is not denied. In these circumstances, there is no illegality or infirmity in the impugned orders, passed by the punishing authority and the appellate authority.

The learned counsel for the petitioner contends that since no pecuniary loss is caused, therefore, the cut in pension cannot be imposed.

I am of the view that no recovery has been ordered. Only a cut of 5% in the pension is imposed on account of misconduct, which is justified in these circumstances.

The present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

3.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes