

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

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**CWP-10600-1995 (O&M)
Date of decision:26.04.2017**

Jasbir Singh

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Gurinder Pal Singh, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of inquiring officer's report and order dated 15.06.1995 order of removal from service (Annexure P3).

2. The petitioner while working as Store Keeper, on 5 charges, he was subjected to disciplinary proceedings. The charges are relating to remaining unauthorized absent and other allegations of misdeeds committed by him while discharging the duties of the post of Store Keeper. Against the charge sheet dated 17.02.1992, the petitioner did not submit his reply on

the score that the officials respondents have failed to furnish certain documents which are to be relied in the inquiry. Thereafter, the petitioner is stated to have submitted his application for inspection of record. Even though the petitioner was allowed by the official respondents, the petitioner has not taken the advantage of inspection of the record. Thus, the inquiring officer has proceeded with the inquiry based on the inquiring officers report that the charges levelled against the petitioner were proved and matter was forwarded to the disciplinary authority for the purpose of consequential action in the matter. Accordingly, the disciplinary authority passed order of removal from service. Hence this petition.

3. Learned counsel for the petitioner submitted that having regard to the charges levelled against the petitioner except one charge, rest of the charges are very vague which are not supported by any date and event. It was further submitted that the petitioner has not been provided documents which are to be relied in the inquiry. In this regard, the petitioner is stated to have submitted application. The same has not been considered or rejected. The Inquiring Officer has made a statement that the petitioner has been given opportunity. The same has not been availed by him. In this regard, no document has been placed on record by the official respondents. Thus there is a denial of opportunity of examination of documents. It was also contended that the inquiring officer proceeded to examine the petitioner as well as witnesses by posing number of questions. That apart, even examination of Subhash Chander and Pritam Singh who are witnesses in the disciplinary proceedings have been examined extensively by the inquiring

officer. On this score itself the Inquiring Officer's Report as well as consequential order of removal from service are liable to be set aside.

4. On the other hand, learned counsel for the respondents submitted that the petitioner has been given ample opportunity to inspect the records. He has not availed the same. Not even a single document has been placed on record so as to demonstrate that the petitioner has demanded for furnishing documents relating to charges. What has been sought by the petitioner is only for inspection of records. However, despite giving sufficient time, the petitioner has not availed. Therefore, the contention of the petitioner that the petitioner has not been provided opportunity to inspect the records is not tenable. Insofar as contention of the petitioner that the Inquiring Officer has extensively examined the petitioner as well as witnesses the counsel for respondents is not disputing for the reasons that having regard to the record of the inquiry officer. It was further contended by learned counsel for the respondents that having regard to the seriousness of the charges that the petitioner remained unauthorized absent frequently as is evident from charge No. 1 the official respondents have taken correct decision to remove the petitioner from service. Therefore, there is no infirmity in inquiring officer's report as well as removal order.

5. Heard learned counsel for the parties.

6. Charges levelled against the petitioner reads as under:-

“1. That Sh. Jasbir Singh, Store Keeper remained absent wilfully from duty without prior permission/sanction of leave from 10.8.91 to 24.8.91, 29.8.91 to 2.9.91, 4.10.91 to 5.10.91, 21.10.91 to 21.11.91 and 23.11.91 to

24.11.91 in utter disregard of the office discipline/rules and instructions;

2. That Shri Jasbir Singh, Store Keeper has committed a serious act of grave misconduct by tampering with record by making his presence in the Attendance Register;

3. That Shri Jasbir Singh, Store Keeper is in the habit of misbehaving and disobeying and using derogatory language against his superiors by abusing and using filthy language;

4. That there is great indiscipline/insubordination on the part of Shri Jasbir Singh, Store Keeper by making misleading and wrong statements in the presence of the Secretary/Deputy Secretary in the M.L.As. Hostel on 10.7.91 in regard to supply of towels to Smt. Chandrawati, M.L.A.;

5. That Shri Jasbir Singh, Store Keeper has shown grave negligence in performance of his duties and has committed an act of dereliction of duty.”

7. Except first charge, rest of the charges are very vague. It was noticed that the petitioner has not submitted any application for supply of documents which are to be relied in the disciplinary proceedings. Therefore, the said contention of the petitioner is not tenable. Insofar as the contention of the petitioner that inquiring officer has examined the petitioner as well as two witnesses is concerned, it is evident from the questionnaire posed by the inquiring officer for both petitioner as well as witnesses that the inquiring officer has acted as a Presenting Officer. On this ground, itself the inquiring officers report as well as consequential order of removal from service are liable to be set aside. Accordingly, inquiring officer's

report as well as removal order are hereby set aside.

8. CWP stands allowed.

26.04.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No