

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

414

CWP No.10798 of 1997
Decided on : 27.09.2017

Satinder Singh Bajwa

... Petitioner

Versus

The Registrar, High Court of Punjab and Haryana

.. Respondent

CORAM : HON'BLE MR.JUSTICE P.B.BAJANTHRI

Present : Mr.S.S.Narula, Advocate for the petitioner.
Ms.Munisha Gandhi, Sr. Advocate with
Mr.Raman B Garg, Advocate for the respondent.

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, the petitioner has challenged the validity of the Disciplinary and Appellate Authority orders dated 20.12.1991 and 26.04.1996 vide Annexures P/10-A and P-12 respectively.
2. The petitioner was charge-sheeted on 22.12.1989 on the allegation that he had claimed false T.A. Extract of of charge is as under:-

“1. That you claimed false T.A. for following dates by showing yourself on tour:

- (a) from 19.3.1988 to 20.3.1988
- (b) on 5.5.1988
- (c) from 17.8.1988 to 19.8.1988
- (d) from 2.9.1988 to 4.9.1988
- (e) from 8.10.1988 to 12.10.1988
- (f) from 18.10.1988 to 19.10.1988 and
- (g) from 15.10.1988 to 20.10.1988

As according to the attendance register you were present in the office at Chandigarh and somewhere else also. Claiming fare by A.C.C. Bus for the journeys actually performed as stated above without supporting not your claim with the tickets adds further to the severity of the charge.”

3. The Inquiring Officer held that the alleged charges i.e. 1(c), 1 (f) and 1(g) were proved and rest of the charges were not proved. The

petitioner was provided a copy of the Inquiring Officer's report seeking his explanation. Petitioner submitted his explanation on 12.8.1991. Consequently, disciplinary authority proceeded to impose the penalty of reduction to the minimum of time scale of pay of Assistant and in addition to, penalty of stoppage of two future increments with cumulative effect was imposed on 20.12.1991.

4 Feeling aggrieved by the orders of disciplinary authority, petitioner preferred an appeal before the appellate authority. Appellate authority after perusing the petitioner's contention, modified the penalty i.e. reduced penalty from reduction of minimum time scale of pay and stoppage of two future increments with cumulative effect to that of stoppage of four increments with commutative effect. Thus, the present writ petition.

5 Learned counsel for the petitioner submitted that insofar as the proving charges i.e. 1(c), 1(f) and 1(g) are concerned, he had shown sufficient material to show that he did travel for the purpose of claiming T.A. during the period mentioned in the charge memo. It was also submitted that while proving the charge, the Inquiring Officer has exceeded his jurisdiction to the extent holding that petitioner had claimed double D.A. which was not part and parcel of the charge memo.

6 It was further contended that disciplinary authority cannot impose dual punishment as ordered by the disciplinary authority on 20.12.1991 to the extent of reduction to the minimum time scale and stoppage of two future increments with cumulative effect. Consequently, it should be restricted to either of the penalty whereas, appellate authority enhanced the penalty from stoppage of two increments with cumulative effect to that of four annual grade increments. Thus, the appellate authority

has enhanced the penalty. Such enhancement of penalty is without hearing the petitioner and without giving him notice. Hence, the orders of the disciplinary authority as well as appellate authority are liable to be set aside.

7. Learned counsel for the respondents submitted that Inquiring Officer, disciplinary and appellate authority have apprised the factual aspect which has come on record that the petitioner has claimed T.A. as per the charges 1(c), 1(f) and 1(g) without any basis. It was further submitted that question of enhancement of penalty in the present case do not arise since reading of the appellate authority order. It is crystal clear that appellate authority has specifically stated that punishment can be reduced appropriately and moulded. This is evident from the order, therefore, question of enhancement of penalty is not at all attracted. On the other hand, penalty of reduction of pay and withholding of two future increments with cumulative effect has been modified to the extent of imposing the single penalty namely stoppage of four annual grade increments with cumulative effect.

8. Heard learned counsel for the parties.

9. At the outset, under Article 226 of the Constitution, Court can not re-appreciate the evidence. Unless there is perverse evidence on record, as held by the *Supreme Court* in case *R.R.Parekh Vs. High Court of Gujarat*, 2016(14) SCC 1 wherein it has been held in paragraph No. 20 of the judgment as under:-

“A disciplinary inquiry, it is well settled, is not governed by the strict rules of evidence which govern a criminal trial. A charge of misconduct in a disciplinary proceeding has to be established on a preponderance of probabilities. The High Court while exercising its power

of judicial review under Article 226 has to determine as to whether the charge of misconduct stands established with reference to some legally acceptable evidence. The High Court would not interfere unless the findings are found to be perverse. Unless it is a case of no evidence, the High Court would not exercise its jurisdiction under Article 226. If there is some legal evidence to hold that a charge of misconduct is proved, the sufficiency of the evidence would not fall for re-appreciation or re-evaluation before the High Court. Applying these tests, it is not possible to fault the decision of the Division Bench of the Gujarat High Court on the charge of misconduct. The charge of misconduct was established in Disciplinary Inquiry No.15 of 2000.”

10 Therefore, question of interference in the inquiry, there is a bar of a judicial review. Hence, the contention of learned counsel for the petitioner relating to appreciation of evidence to the extent that the petitioner did travel with reference to the alleged charge that false claim of T.A. etc. cannot be gone into.

11 Next question is whether disciplinary authority is permitted to impose two penalties. Provisions of the Punjab Civil Services (Punishment & Appeal) Rules, there is no bar to impose two penalties. That apart, disciplinary authority order merges with the order of appellate authority. Appellate authority has modified the penalty by imposing a single penalty namely withholding of four annual grade increments with cumulative effect which does not amounts to enhancement of penalty. Thus, perusal of the disciplinary as well as appellate authority orders, petitioner has not made out a case so as to interfere with the orders.

12. Accordingly, petitions stands dismissed.

27.09.2017

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Whether speaking/reasoned

Whether Reportable

[**P.B. Bajanthri**]

Judge

: Yes/No

: Yes/No