

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 10514 of 2016
Date of Decision: March 24, 2017

Niranjan Singh

... Petitioner

Versus

Punjab and Haryana High Court, Chandigarh and another

.... Respondents

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

Present: Mr. Harish Sharma, Advocate,
for the petitioner.

Mr. Lalit K. Gupta, Advocate,
for the respondents.

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioner has questioned the order dated 23.02.2016 (Annexure P/4) by which petitioner's claim for compassionate allowance under Rule 2.5 of Punjab Civil Service Rules, Vol.II has been considered and rejected.

2. Petitioner joined service as a Clerk on 15.07.1986. While working as such in the year 1987 on certain allegations relating to loss of judicial record, he was subjected to disciplinary proceedings and penalty of dismissal from service was imposed upon him on 21.04.2003. Thereafter, matter went up to the Supreme Court wherein petitioner had filed SLP, review petition and curative petition which were all disposed of against the petitioner. Further, a mercy appeal has been preferred before this High Court and the same was rejected on 03.09.2014. Consequently, petitioner submitted an application for compassionate allowance under Rule 2.5 of the

Punjab Civil Services Rules, Vol.II on 11.01.2016. The same was also rejected on 23.02.2016. Hence, present writ petition.

3. Learned counsel for the petitioner submitted that having regard to the charge leveled against the petitioner and the alleged charge relating to loss of judicial record, the petitioner has been scapegoat by the other officials who were also involved in the loss of judicial record. Therefore, sympathetically the respondent should have considered for grant of compassionate allowance under Rule 2.5 of the Punjab Civil Services Rules, Vol.II. Learned counsel has relied on decision of Supreme Court in the case of ***Mahinder Dutt Sharma vs. Union of India and others***, reported in ***(2014) 2 S.C.T., 692***. He relying on para 13 wherein parameters have been laid down for the purpose of not extending the benefits of compassionate allowance. Learned counsel for the petitioner further submitted that petitioner's case could not fall under any one of the parameters stated in para no.13 of the judgment supra. Para No.13 of the Supreme Court's decision cited supra reads as under:-

“13. In our considered view, the determination of a claim based under Rule 41 of the Pension Rules, 1972, will necessarily have to be sieved through an evaluation based on a series of distinct considerations, some of which are illustratively being expressed hereunder:-

(i) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act of moral turpitude? An act of moral turpitude, is an act which has an inherent quality of baseness, vileness or depravity with respect to a concerned person's duty towards another, or to the society in general. In criminal law, the phrase is used generally to describe a conduct

which is contrary to community standards of justice, honesty and good morals. Any debauched, degenerate or evil behaviour would fall in this classification.

- (ii) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act of dishonesty towards his employer? Such an action of dishonesty would emerge from a behaviour which is untrustworthy, deceitful and insincere, resulting in prejudice to the interest of the employer. This could emerge from an unscrupulous, untrustworthy and crooked behaviour, which aims at cheating the employer. Such an act may or may not be aimed at personal gains. It may be aimed at benefiting a third party, to the prejudice of the employer.*
- (iii) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, an act designed for personal gains, from the employer? This would involve acts of corruption, fraud or personal profiteering, through impermissible means by misusing the responsibility bestowed in an employee by an employer. And would include, acts of double dealing or racketeering, or the like. Such an act may or may not be aimed at causing loss to the employer. The benefit of the delinquent, could be at the peril and prejudice of a third party.*
- (iv) Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, aimed at deliberately harming a third party interest? Situations hereunder would emerge out of acts of disservice causing damage, loss, prejudice or even anguish to third parties, on*

account of misuse of the employee's authority to control, regulate or administer activities of third parties. Actions of dealing with similar issues differently, or in an iniquitous manner, by adopting double standards or by foul play, would fall in this category.

- (v) *Was the act of the delinquent, which resulted in the infliction of the punishment of dismissal or removal from service, otherwise unacceptable, for the conferment of the benefits flowing out of Rule 41 of the Pension Rules, 1972? Illustratively, any action which is considered as depraved, perverted, wicked, treacherous or the like, as would disentitle an employee for such compassionate consideration.”*

4. The learned counsel for the respondents resisted the claim of the petitioner with reference to the conduct of the petitioner read with order of dismissal and dismissal is being upheld by the Supreme Court. No interference is called from this Court.

5. Having regard to the facts and material on record and the allegations on which the petitioner has been dismissed from service, petitioner's case would fall under para 13(i) of the Supreme Court's decision for denial of compassionate allowance. Thus, the petitioner has not made out a case so as to interfere with the impugned order dated 23.02.2016 (Annexure P/4).

6. Accordingly, instant writ petition stands dismissed.

March 24, 2017

vkd

**[P.B. Bajanthri]
Judge**

Whether speaking / reasoned : Yes

Whether reportable : No