

RAJEEV THAKRAL
2017.12.09 09:47

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

CWP No.17564 of 2016

Date of Decision:04.12.2017

Som Dutt

... Petitioner

Vs.

Union of India and others

... Respondents

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

Present : Mr. Sanjay Mittal, Advocate for the petitioner.

Mr. Neeraj Yadav, Advocate for the respondents-UOI.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the order dated 16.9.2015, 22.01.2016 and 2.6.2016 (Annexures P-15 to P-17 respectively) and further sought for direction to the respondents to reinstate the petitioner in service and extend consequential service benefits.

Petitioner was appointed as a Constable (Driver) on 3.4.2008. When he was working as such, he was charge-sheeted under Section 43 and 49 of the Sashastra Seema Bal Act 2007 and Rules 2009 (for short “SSB Act 2007 and SSB Rules 2009”). Charges reads as under:

“(See rules 44 and 56 (2))

CHARGE SHEET

The accused No.060480713 CT (Dvr) Som Dutt of 41st Bn. SSB, Ranidanga is charged with:-

Charge-I

Charged under Section-49 of SSB Act-2007 read with Sec. 13 (i)(e) of prevention of corruption Act 1988.

In that,

He, while posted in 41st Bn SSB Ranidanga for the period from 01.01.2013 to 31.01.2013 earned Rs.29,627/- as Salary from service which has been deposited in his bank account

No.20017643434, but during said period he got credited Rs.97,627/- in his bank account, thereby he earned Rs.68,000/- disproportionate to his known source of income during the said period.

Charge-II

Charged under Section-43 of SSB Act 2007:- Violation of good order and Discipline

In that

He, while posted in 41st Bn SSB, Ranidanga for the period 01.01.2013 31.01.2013 involved in cash transaction of Rs.68,000/- through his account No.20017643434 from unknown source without information/prior permission Competent Authority.

Place: 41st BN SSB, Ranidanga (WB)

Date:

(SUDHIR VERMA)

COMMANDANT

41st BN SSB, RANIDANGA ”

Perusal of the records, it is evident that no doubt money transaction has taken place in the bank account of the petitioner but at the same time such transaction is arising out of corruption allegation was not proved. What has been proved is only to the extent that money was deposited in the petitioner's account by petitioner's father and relative. Disproportionate known source of income is not with reference to any corruption allegations. Of the record, it was submitted by the respondents that at the relevant point of time there were recruitment process may be this deposit be in connection of getting selection and appointment to some persons money transaction might have been made by the petitioner. To that extent, there is no charge in the charge-sheet dated 27.3.2015. Therefore, respondents are required to restrict the enquiry to the charges only to the extent which has been framed on 27.03.2015. Merely admission in respect

of amount which has been deposited in the petitioner's account by his father and relative that does not amount to admission of the alleged charge. At the same time, petitioner cannot deny the remittance of amount mentioned in the charge in his bank account. In the inquiry proceedings authorities have not examined bank challans and other related material to prove the charges that amount which was deposited by the petitioner's father and relative was disproportionate to the known source of income. Further there is no finding how father of the petitioner and relative got the money deposited by them in the petitioner's account etc. In other words, enquiry was not held appropriately. The disciplinary authority has imposed major penalty which is shocking with reference to the alleged charge to the extent that certain money transaction has been made in the petitioner's account and the same has been proved in connection with the corruption. Therefore, penalty imposed of removal from service is too harsh. Hence, orders of penalty as well as appellate authority/ies are set aside and the matter is remanded to the disciplinary authority to impose any other penalty other than dismissal from service.

Accordingly, petition stands allowed in part.

04.12.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**