

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

**CWP-5730-2013(O&M)
Decided on: May 02, 2017**

Satinder Kaur And Another

.... Petitioners

Versus

The Lokayukta Haryana And Another

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Vivek Khatri, Advocate for the petitioners.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Rajneesh Malhotra, Advocate for
Mr. O.P. Gupta, Advocate for respondent No. 2.

M.M.S. BEDI, J (ORAL)

The petitioners are Government employees. They have filed the present writ petition challenging the order dated 06.02.2013 (Annexure P-8) passed by Lokayukta, Haryana against the petitioners on the complaint of respondent No. 2.

A perusal of the order (Annexure P-8) indicates that the respondent No. 2 had levelled allegations of corruption against the petitioners on having been informed that the petitioners are wife and husband, working in the Education Department, Faridabad. The petitioner No. 1 was working as Deputy District Education Officer whereas petitioner No. 2 was working as Clerk in the Education Department, Faridabad.

After considering the allegations levelled by the complainant, Lokayukta, Haryana vide order dated 06.02.2013 (Annexure P-8) had recommended that the regular enquiry which has been initiated under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (for short 'the Rules') against petitioner No. 1 for financial irregularities should

be finalised and expeditiously completed within a period of three months. He had also recommended the transfer of couple to some other place in the interest of justice.

Counsel for the petitioners has contended that complaint to the Lokayukta, Haryana was not maintainable on the ground that the complainant had also filed similar complaint before the Judicial Magistrate, Faridabad and that complaint had already been dismissed. Copy of the orders passed by the Courts below have been placed on record.

After hearing counsel for the petitioners and counsel for the respondents, I am of the opinion that respondent No. 1-Lokayukta, Haryana has not, in any manner, exceeded the jurisdiction as only a recommendation has been made for concluding the disciplinary proceedings under Rule 7 of the Rules expeditiously within a period of three months considering the alleged financial irregularities pointed out by the complainant.

Counsel for the petitioners has contended that opportunity of hearing was not granted to the petitioners.

I have heard counsel for the petitioners and I am of the opinion that no doubt before passing any adverse orders against any person, he or she is entitled to be heard. The facts of the present case indicate that on the basis of allegations of the irregularities regular enquiry had been initiated independently by the State. The Lokayukta has merely considered the allegations levelled by the complainant and recommended the conclusion of the enquiry expeditiously. No individual prejudicial order has been passed against the petitioners. The recommendation of transfer of the petitioners does not appear to be a serious prejudicial order as transfer is simply considered to be a condition of service not giving any enforceable right to a

person to remain posted at a particular place. Even otherwise before transfer, no employee is entitled to an opportunity of hearing and while initiating departmental proceedings, the delinquent employee can be transferred by the employer in its discretion.

In view of the totality of the above circumstances, I do not find any ground to interfere in the order passed by the Lokayukta, Haryana. However, it is observed that any observation made by Lokayukta will not, in any manner, prejudice the rights of the petitioners in the inquiry, being held under Rule 7 of the Rules. On asking from the Court, it has been informed that the inquiry under Rule 7 has already been finalized and punishment of stoppage of one annual grade increment without cumulative effect i.e. a minor penalty, has already been imposed upon petitioner No. 1. It is always open to the petitioners to challenge the said order in accordance with rules.

Petition is dismissed.

(M.M.S. BEDI)
JUDGE

May 02, 2017
Divyanshi

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No