

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.9046 of 2014 (O&M)

Date of Decision : 31.01.2017

Sunil Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajesh K.Kataria, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the orders
Annexure P-4 and Annexure P-7.

The petitioner was charge-sheeted under Rule 7 of Haryana
Civil Services (Punishment and Appeal) Rules, 1987 on the following
charges :-

***“Charge Sheet against Sh. Sunil Kumar, Lecturer English,
G.S.S.School, Kanonda (Jhajjar).***

*Sh. Sunil Kumar, Lecturer English, G.Sr.S.School,
Kanonda (Jhajjar) committed the following mistakes while
working.*

*That his behavior towards girl students is not proper.
Many time he utters such words while teaching which is
difficult to bear which are as “where is your attention and
where you are lost in conjectures and in class starts to play
tunes on mobile phone”. This kind of behavior is unbecoming
for a lecturer and it is percussion to the dignity of teacher
class.*

The above stated irregularity shows misconduct at the level of Sh.Sunil Kumar, Lecturer English. By doing this he made himself eligible for harsh disciplinary action.”

The Inquiry Officer found as follows :-

“I have gone through and read carefully all the documents on file and witnesses and all the statements/documents produced by the accused. It is nowhere and in any manner proved that the accused used unwanted/abusive language/words in class. Moreover maximum number girl students and their parents certified the good character of accused. I feel to mention here that in past the behavior of the accused was not proper in previous school. However, the accused was acquitted by the Court on technical ground yet it was fully proved that accused had made physical relation with a girl namely Manju in previous school. Probably, previous image is following the accused and it seems the complaint has been made on this very basis which is the base of this charge sheet.”

Despite this exoneration the punishing authority held as follows :-

“I have gone through the contents of chargesheet, reply thereof, report of regular enquiry officer, written representation in consequence thereof, judgment dated 16.03.2012 passed by Additional Sessions Judge, Rohtak under Sections 363, 366, 376 and 493 IPC and connected provisions of Haryana Civil Services (Punishment and Appeal) Rules, 1987. From the perusal of the above, it is clear that though the enquiry officer has concluded in the last line of the enquiry report that the charges did not stand proved, yet it has been clearly inferred that the incumbent has made physical relation with a girl student in his previous school and he has been acquitted in the said case just on technical and legal grounds.”

He further ordered stoppage of one increment without cumulative effect by the subsequent order Annexure P-7. It was held that he would not be entitled to anything beyond what he was paid during the suspension allowance.

Learned counsel for the petitioner has argued that the petitioner has been punished on the wrong premise that the inquiry officer exonerated him on technical ground whereas a perusal of the inquiry report reveals that he was exonerated substantively.

I find that this is indeed so and the punishing authority has passed a speculative punishment order.

In the circumstances, the order Annexure P-4 is set aside. Once that is so the petitioner would have to get the pay and allowances for the period of suspension.

Petition is allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

January 31, 2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No