

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

RA No.54 of 2010 in
CWP No. 18126 of 2009
Date of decision : May 16, 2017

Dr. Anita Sethi

..... Petitioner.

v.

State of Haryana and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Shruti Jain Goyal, AAG Haryana
for the applicants/respondents No.1 and 2.

Mr. Abhishek Sethi, Advocate
for the non-applicant/petitioner.

Mr. Navin Gupta, Advocate
for Mr. SK Garg Narwana, Sr. Advocate

Ajay Tewari, J (Oral)

This review application has been filed against the judgment and order dated 10.02.2010 as per which punishment imposed upon the non-applicant/petitioner (stoppage of one increment without cumulative effect) was set aside and certain strictures were passed against the then Director General Health Services and the Financial Commissioner-cum-Principal Secretary Health.

Brief facts are that the non-applicant/petitioner was on call duty when a patient arrived at the hospital. She was telephonically informed but she did not come to attend the duty. Charge sheet was issued against her.

The Inquiry Officer found that she was not fully proved to be guilty and

ultimately the punishment was imposed which was challenged in the writ petition and which was allowed.

In this review application, two contentions have been raised. The first is that the non-applicant-petitioner misrepresented to the Court that the punishment was stoppage of one increment with cumulative effect-which is a major punishment-whereas only minor punishment had been imposed. It has also been averred that this Court erred in coming to the conclusion that the Director General of Health Services and the Financial Commissioner had willfully recorded incorrect findings and also filed false statements before the High Court, and had consequently gone on to record displeasure of the conduct of both the Officers.

Learned AAG Haryana has argued that apart from the wrong impression about the nature of the punishment, the facts are that even though the Inquiry Officer had found that the non-applicant-petitioner was not fully guilty, the inquiry report had been mistranslated to record that the Inquiry Officer had found the non-applicant not at all guilty. It has been further argued that in this view of the matter, it cannot be said that a false finding had been recorded by the Officers or they had taken a false stand before this Court. On merits, it has been sought to argue that once the non-applicant was on call duty and did not reach the hospital even though a telephone message was sent to her, it clearly shows that she was at least guilty.

As regards the first two arguments, a perusal of the writ petition shows that the non-applicant/petitioner has not represented that the punishment imposed is stoppage of one increment with cumulative effect and this small inaccuracy seems to have crept in the order, which has to be

clarified.

As regards the strictures against the officers, I find that the explanation now given also adequately covers the facts and it has to be held that the concerned officers did not intentionally record false finding or give false statements before this Court. As regards the merits, I find that right from the first date, the non-applicant/petitioner had been claiming that she being a lady and staying away from the hospital, if she had to be called for any emergency duty, it would have been appropriate if the doctor on emergency duty had sent a vehicle to pick her up. In the reply, she had also brought out the fact that she and the doctor on emergency duty were not having kind disposition with each other. These facts were never considered either by the disciplinary Authority or by the Director General of Health Services or by the Financial Commissioner. In the circumstances, I do not deem it appropriate to review the order setting aside the punishment and the inquiry proceedings. Consequently, the review application is partly allowed and it is directed that in the order under review, the punishment imposed upon the non-applicant/petitioner be read as punishment of stoppage of one increment without cumulative effect. Further, the strictures recorded against the Officers are also expunged but the relief granted to the non-applicant/petitioner is kept intact.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

May 16, 2017
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No