

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-447-2017

Date of Decision: April 06, 2017

Santosh Kumar

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Ms.Jigyasa Tanwar, Advocate
for the appellant.

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SURYA KANT, J.

This letters patent appeal assails the order dated 14.02.2017 whereby learned Single Judge has disposed of appellant's writ petition with a direction that the preliminary enquiry initiated by the State Vigilance Bureau into the allegations said to have been made against the appellant be concluded in a time-bound manner and meanwhile his 50% of the gratuity amount be released. In the event of appellant being exonerated, the remaining amount has also been ordered to be released alongwith interest as per Government instructions.

[2] The appellant's case however is that no second enquiry can be permitted to be conducted by the Vigilance Bureau as earlier also the same set of allegations levelled against him were enquired into but nothing was

substantiated as per the enquiry report, Annexure P-2.

[3] The appellant held the post of Sub Divisional Officer in the Municipal Corporation, Ludhiana, till he retired in the year 2010. It appears that there was a anonymous complaint against him alleging amassing wealth more than the known and disclosed sources of income of the appellant. Those allegations include (i) ownership of a Dairy Farm with 200 cows and 7 acres land; (ii) the tyre, tube factory at village Kanganwal; (iii) labour quarters at the back side of the factory; (iv) the appellant's wife is a partner in Green Valley Sider Private Limited, Shimla; (v) foreign visits of appellant's wife; and (vi) benami immovable properties owned by the family etc.etc.. A preliminary enquiry was held and vide report (P-2) it was recommended that the allegations could not be established. Thereafter, the 2nd probe was initiated by the State Vigilance Bureau which looks into the conduct of public servants. The said 2nd probe was challenged by the appellant before the learned Single Judge.

[4] It further appears that during pendency of the writ petition and with a view to satisfy re: initiation of second preliminary enquiry by the State Vigilance Bureau, learned Single Judge on 05.01.2015 directed the Head of the State Vigilance Bureau to file an affidavit and explain circumstances warranting second enquiry into the same set of allegations. In deference thereto, the then Chief Director, Vigilance Bureau, Punjab, filed his affidavit dated 19.02.2015 which is on record. We have gone through the contents of the said affidavit, especially the allegations against the appellant and his family briefly noticed in para 2(A) to (F). After a brief

affidavit has stated that “in light of abovementioned facts which point towards numerous suspicious circumstances.....”, it is necessary to carry on further enquiry into the matter.

[5] Learned counsel for the appellant, however, contends that the second enquiry is not maintainable in view of the Manual Instructions of the Vigilance Bureau which prohibits second enquiry or rejection of such like complaints outrightly when it is not possible to identify the complainant.

[6] We have given our thoughtful consideration to the submission and are of the view that the Vigilance Manual or the Instructions are internal guidelines and do not clothe the public servant with an enforceable right to stall the second preliminary enquiry into the allegations. That apart, the Manual of Instructions relied upon by the appellant clearly recites that the purpose of not entertaining anonymous or pseudonymous complaint is to ensure that no adverse effect is caused on the morale of public servants. Such a reason does not apply in the case in hand as the appellant has already retired from service in the year 2010.

[7] For the reasons aforesaid, we do not find any valid ground to interfere with the order passed by the learned Single Judge.

[8] Dismissed.

(SURYA KANT)
JUDGE

April 06, 2017
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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No