

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

CWP No.10221 of 2001
DATE OF DECISION : 18TH JANUARY, 2018

Maninder Singh

.... Petitioner

Versus

**The Punjab and Haryana High Court, through Registrar at
Chandigarh and others**

.... Respondents

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

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Present : Mr. Baljinder Singh, Advocate for the petitioner.

Mr. Sumit Mahajan, Senior Advocate with
Mr. Swaran Kumar Sandhir, Advocate
for respondents No.1 and 2.

Mr. H. S. Sullar, Deputy Advocate General, Punjab
for respondent No.3.

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A. B. CHAUDHARI, J.

1. The petitioner, who is a dismissed judicial officer, had filed the present petition under Article 226/227 of the Constitution of India by which the petitioner has put to challenge charge-sheet dated 14.07.1995 (Annexure P-1); enquiry report dated 05.06.1999 (Annexure P-13) and order of dismissal dated 02.03.2001 (Annexure P-16) passed by respondent No.3-State of Punjab on the recommendation of the Punjab and Haryana High Court.

Facts:

2. The petitioner was at the relevant time posted as Sub Judge-cum-Judicial Magistrate Ist Class at Amritsar. On 30.01.1995 at about 12 'O'clock when the Court working was being conducted in his Court, Meera Devi (deceased) the Steno-typist working in his Court, put

something in her mouth and immediately left her seat and rushed towards the door of the retiring room of the petitioner. She uttered few words that she does not want to live. Since some smell and froth was coming from her mouth, the petitioner and other staff members of the Court shifted her in official car to the Kakkar Hospital, Amritsar at a distance of one and a quarter kilometer from the Court complex. The petitioner had sent intimation to the District and Sessions Judge, Amritsar through Roshan Masih, Peon and the District and Sessions Judge arrived in the hospital so also the parents of the deceased Meera Devi. The petitioner was asked by the District Judge to go back to the Court and to continue the work. The hospital authorities called police and Tarsem Parkash, SI Additional SHO, Police Station Civil Lines, Amritsar reached the hospital and asked the Doctor as to whether the patient was fit to make statement. Again on the next day i.e. on 31.01.1995 he asked the opinion but she was not fit to give statement. Ultimately she expired on 31.01.1995 at 11.00pm.

3. The parents of the deceased were questioned by Tarsem Parkash, SI and they stated that they did not suspect any foul play and did not wish to take any action against anyone. The statements were made by them voluntarily. Smt. Lakshmi Chawla and Smt. Vimla Dang the local MLAs made the issue public and instigated the parents of Meera Devi to raise their voice for registration of the case in respect of death. Thereafter, on the statement of Ram Krishan, the brother of the deceased, FIR No.19 dated 20.02.1995 under Sections 306 and 506 Indian Penal Code (IPC) was registered in Police Station Civil Lines, Amritsar. The criminal case was filed against the petitioner in the trial Court after investigation was completed. The said criminal case finally resulted into

acquittal of the petitioner and the appeal against acquittal that was filed in this Court was also dismissed by the Division Bench of this Court.

4. This Court i.e. Respondent No.3-Punjab and Haryana High Court, initiated departmental proceedings against the petitioner vide chargesheet dated 14.07.1995 (Annexure P-1) and the departmental enquiry was held against the petitioner. The enquiry officer was appointed namely the District and Sessions Judge (Vigilance) Haryana. 27 witnesses were examined in the departmental enquiry. After the completion of enquiry the enquiry officer submitted his report dated 05.06.1999 (Annexure P-13). The enquiry officer recorded the finding that the charges leveled in the chargesheet in the departmental enquiry were duly proved. The High Court, therefore, issued a show cause notice dated 18.09.1999 (Annexure P-14) for imposition of penalty of dismissal from service along with enquiry report to which he submitted his reply. Thereafter, the appointing authority considered the entire matter and recommended that the petitioner be dismissed from service. Acting on the said recommendation of the High Court, the State Government issued impugned dismissal order dated 02.03.2001 (Annexure P-16). Hence this petition.

Arguments:

5. Mr. Baljinder Singh, Advocate appearing for the petitioner submitted that the criminal case in the same subject matter was lodged against the petitioner in which the prosecution examined as many as 23 witnesses, including those witnesses who were also examined in the departmental enquiry. The subject matter of the enquiry and criminal case was the same. The criminal Court acquitted him of the charges for

which the petitioner was charged. The appeal preferred by the State against the order of acquittal was dismissed by Division Bench of this Court. The findings recorded by the criminal Court as well as by this Court in the said criminal case would be binding on the enquiry officer and consequently the appointing authority, that the petitioner did no wrong and did not commit any offence. The petitioner was, therefore, liable to be exonerated for the charges framed against him in the departmental enquiry and consequently the order of dismissal is liable to be quashed and set aside.

6. Perusal of the enquiry report clearly shows that the department did not have satisfactory evidence against the petitioner and the enquiry officer merely acted upon the inferences which he drew ultimately while preparing the enquiry report. The enquiry report is contrary to the evidence on record and the material facts on the record. The appointing authority did not at all consider the reply to the show cause notice that was given by the petitioner after completion of enquiry.

7. The best witness in the daily functioning of the Court namely the Court staff, i.e. gun man had deposed before the enquiry officer but he did not support the department and in support of the charges leveled against the petitioner. Therefore, the enquiry officer ought to have given importance to their evidence rather than the evidence of interested witness namely mother, father and brother of the deceased Meera Devi. There was absolutely no material on record to say that the charges leveled against the petitioner in the departmental enquiry were at all proved. The findings recorded are perverse. There is no evidence of the petitioner having been found in the company of the deceased at any

point of time. But the findings have been rendered on the basis of surmises and conjectures. The petitioner is completely innocent but has been dismissed from service which has resulted in to miscarriage of justice to him and his family members. He is the person of 36 years of age with three children and therefore, the punishment of dismissal from service is harsh and disproportionate.

8. *Per contra*, the learned counsel for the respondents vehemently opposed the petition and submitted that the report prepared by the enquiry officer is based on evidence that was tendered in the departmental enquiry and there is nothing to show that the findings recorded by him could be termed as perverse. The proceedings in the departmental enquiry and the proceedings in a criminal case stand on a totally different footing and there can be no comparison even if the subject matter is same. According to the counsel for the respondents the subject matter of the criminal case was the charge under Section 306 and 506 IPC i.e. abetment of suicide and impart of threats as against the charges which are totally different. The findings of acquittal recorded by the criminal Court and confirmed by this Court in appeal, would not be binding in the departmental proceedings as contended. The counsel for the respondents further submitted that the respondents were right in dismissing the petitioner from service in the judiciary, looking to the nature of charges proved against the petitioner. He, therefore, prayed for dismissal of the writ petition.

Consideration:

9. We have heard learned counsel for the parties at length.

10. At the outset we must keep in mind that discipline and morality in the judiciary is the hallmark and by no means, institution of judiciary can be allowed to be defamed by any type of immoral or scandalous acts. With this preface, we proceed to deal with the matter.

11. The first article of charge against the petitioner was that while he was working as Sub Judge-cum-Judicial Magistrate, Amritsar and he having married and three children, developed physical relations with the Steno-Typist, Ms. Meera Devi working in his Court and after satisfying his lust started showing his true colours and ill treating her. The petitioner also created such circumstances for her that she became shocked and defamed due to the vicious conduct of the petitioner and ultimately she was forced to commit suicide by consuming some poisonous substance in the open Court on 30.01.1995 as a result of which she died on 31.01.1995.

12. Secondly, the petitioner fully knowing that Ms. Meera Devi had consumed poison, intentionally and with a view to screening himself, took her to private hospital and misused the official position and by utilizing influence did not allow recording of her last statement. Along with the articles of charge statement of imputations was also given to him.

13. As stated earlier the department examined number of witnesses. We have gone through the evidence of the material witnesses examined in the departmental enquiry. We have gone through the cross-examination of all the witnesses. We have gone through the entire enquiry report carefully to find out whether there is any perversity on the part of the enquiry officer in recording findings when compared with the

evidence recorded in the enquiry. The submission made by learned counsel for the petitioner that statement in the enquiry made by the family members of the deceased should be rejected because they did not want to prosecute anybody initially, does not impress us and is rejected. Following is the evidence of Ram Krishan brother of the deceased, in that context, which we quote hereunder:

“However, about 1 and half month prior to the death of my sister, sister and Bhabi of Shri Maninder Singh had come to our house and informed my parents in my absence that Shri Maninder Singh had been insisting to marry Meera Devi and they had further threatened my parents to not agree to this marriage. They had also threatened my parent that they would finish them and would deface Meera Devi. When I returned to the house in the evening my parents told me about this fact. Thereafter, Shri Maninder Singh came to our house and met my father. He made request to my father that he wanted to marry with Meera Devi. My father with folded hands informed Maninder Singh that his sister had stated to them that he is already married and was having children and sister had also given threat to them and for that reason, it would not be possible to marry his daughter with him. Four-five days prior to the death of Meera Devi, She had told me that she was having physical relations with Maninder Singh. She further

stated to me that Sh. Maninder Singh had developed physical relation with her forcibly.

xxx.... xxx.... xxx.... Again said, Police had recorded my statement on 01.02.1995 on being asked about the contents recorded by the police on 01.02.1995 that police had recorded my statement on 01.02.1995 wherein I had stated that regarding death of Meera Devi. I did not have any suspicion against any body and we also did not want any action against any body. This statement was given to the police under pressure of Judges who had stated that we will be prosecuted and sentenced and also have to pay damages in the case filed against us. They had stated that Maninder Singh is a man who has approach at a highest level, therefore this pressure was put up on me. I do not know the names of the Judges.”

14. It is thus clear that the parents and the brother of the deceased come from an ordinary background had to face the influential member of the judiciary. We accept the aforesaid explanation given by Sh. Ram Krishan and reject the submission made by counsel for the petitioner. The submission made by learned counsel for the petitioner about the alleged binding nature of the judgment of acquittal in a criminal case confirmed by this Court, must be rejected out right. The criminal case was regarding the charge of abetment of suicide and the threats allegedly imparted by the petitioner. We have already reproduced the articles of charges above. Perusal of the articles of charges and statement of imputations clearly show that nothing is similar in the criminal case and the chargesheet in the departmental enquiry. Therefore, on facts we

find that the subject matter of both the cases cannot be said to be the same.

15. The next submission is that the evidence of the official witnesses working in the Court should have been accepted for exonerating the petitioner. We do not agree. The reason is that none of these witnesses are privy to the incidents described in the evidence by the mother, father and brother of the deceased Meera Devi. They could not be. Therefore, to say that the evidence of the witnesses from the Court of the petitioner should have been considered, does not take us anywhere, looking to the nature of charges which are required to be proved.

16. Now coming to the merits of the matter and various submissions made by learned counsel for the petitioner about the alleged absence of evidence or disproportionate punishment etc., we have kept in mind the principles of *Wednesbury's* test which have been accepted by the Apex Court. In the case of ***Union of India and another Vs. G. Ganayutham (1997) 7 SCC 467***, the Apex Court had has to say in para 31(1) as under:

“31. The current position of proportionality in administrative law in England and India can be summarized as follows:

(1) To judge the validity of any administrative order or statutory discretion, normally the *Wednesbury* test is to be applied to find out if the decision was illegal or suffered from the procedural improprieties or was one which no sensible decision-maker could, on the material before him and within

the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however go into the correctness of the choice made by administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the Wednesbury test.”

17. Smt. Krishna PW-1 wife of Kirpal Dass, that is the mother of the deceased Meera Devi, stated thus in her evidence in the departmental enquiry:

“xxx.... Meera Devi, now deceased was my daughter. She was employed as Steno in the Court of Sh. Maninder Singh, Sub Judge, Amritsar who is present as well. After she was employed, we had gone to Baba Barbagh Singh because we had taken a vow to visit Baba Barbagh Singh on her employment. I do not know when we went there. Meera Devi, Bakshi Ram’s wife, her minor son, Shri Maninder Singh and me had gone to Dera Baba Barbagh Singh together in a car arranged by me. I was residing with my husband and Meera Devi in the house of Bakshi Ram. I cannot tell the date, month

and year when sister and Bharjai of Shri Maninder Singh visited us in the month of summer and informed us that Sh. Maninder Singh was pressing them that he wants to marry Meera Devi and we should not agree to this. They also threatened us to kill my family in case we allowed Meera Devi to marry Shri Maninder Singh. They also told me that I should not tell Shri Maninder Singh about their visit. They also stated to me that they were serving with big officers and would spoil the face of Meera Devi. Similar threat was given to Meera Devi and they would spoil her face, in case she agreed to marry Sh. Maninder Singh. Meera Devi asked them to enquire from their brother Shri Maninder Singh because he had been threatening her to marry her otherwise, he would consume tablets which he had been carrying with him always. Thereafter, they left our house. Meera Devi had gone to attend her duties on the next day. Thereafter, we stopped her from going to the courts. She had being ailing as well.

xxx.... xxx.... xxx.... Meera Devi had resumed her duties, wife of Shri Maninder Singh came to my house.

The wife of Shri Maninder Singh stated to my daughter that she would not marry Shri Maninder Singh. She further stated to her in case she marry

Shri Maninder Singh, she would first of all kill her three children and then commit suicide herself. Meera Devi then showed the letters to Shri Maninder Singh. Those letters were written by Meera Devi. After reading the letters the wife of Shri Maninder Singh stated to my daughter, that whatever stated by her was right on her part and further asked her that she should not marry Shri Maninder Singh. The wife of Shri Maninder Singh tore off those letters. Those letters were also burnt by the wife of Shri Maninder Singh in our house. The wife of Shri Maninder Singh had come to our house on Sunday. xxx.... xxx.... xxx....”

18. Her cross-examination does not reveal any damage to her evidence that was given in departmental enquiry. The evidence that the wife of the petitioner, having come to know about the open romantic relationship of the petitioner with the deceased got infuriated and then went to the mother of the deceased and extended threats to the family if at all the family of Meera Devi agreed to perform marriage of Meera Devi with the petitioner has gone un-shattered. The enquiry officer has rightly found out that the said important piece of evidence could have been rebutted by the petitioner by examining his wife before the enquiry officer so that truth could be found out. The submission in the reply to the official show cause notice that was made by the petitioner, that her evidence would not have been accepted being interested witness, is nothing but his wild imagination. In our opinion it is an excuse in order

to suppress the truth. There is evidence of PW-2 Kirpal Dass the father of the deceased. We quote following portion from his evidence, which reads thus:

“A month prior to the death of my daughter, sister and Bharjai of Shri Maninder Singh visited us and threatened us. Sister of Maninder Singh stated to us that Maninder Singh states in the house that he wants to marry Meera Devi. Both of them stated to us that we are not to agree to marry Meera Devi to Maninder Singh. They further stated to us that they would finish our family. My wife, my daughter and me got terrified for 10/15 days, Meera Devi was not sent to the Court to attend her duties, Shri Maninder Singh sent a letter to my daughter informing her that in case she did not resume duties she would be treated without pay. xxx.... xxx.... xxx....

A day prior to the incident, wife of Shri Maninder Singh had come to our house. She was accompanied by gunman of Shri Maninder Singh and a child. She demanded the complaints made against Shri Maninder Singh which were written by my daughter. The wife of Sh. Maninder Singh with folded hands requested Ms. Meera Devi that she was her younger sister and she should not file complaints against Shri Maninder Singh. Ms. Meera Devi had written complaint against Shri Maninder Singh and

showed those complaints to Sh. Maninder Singh. The wife of Sh. Maninder Singh demanded those very written complaints from Ms. Meera Devi my daughter handed over those written complaints to the wife of Sh. Maninder Singh. I sat with gunman outside the room, while my wife, my daughter and wife of Sh. Maninder Singh remained in the room of my house. The wife of Sh. Maninder Singh burnt those complaints those which she had obtained from my daughter.

19. Again aforesaid evidence is on the same line. We then quote following portion from the evidence of Ram Krishan brother of the deceased, who stated thus in his evidence:

“xxx.... xxx.... xxx.... However, about 1 and half month prior to the death of my sister, sister and bhabi of Shri Maninder Singh had come to our house and informed my parents in my absence that Shri Maninder Singh had been insister to marry Meera Devi and they had further threatened my parents to not agree to this marriage. They had also threatened my parents that they would finish them and would deface Meera Devi. When I returned to the house in the evening my parents told me about this fact. Thereafter, Shri Maninder Singh came to our house and met my father. He made request to my father that he wanted to marry with Meera Devi. My father

with folded hands informed Maninder Singh that his sister had stated to them that he is already married and was having children and sister had also given threat to them and for that reason, it would not be possible to marry his daughter with him. Four-five days prior to the death of Meera Devi, She had told me that she was having physical relations with Maninder Singh she further stated to me that Sh. Maninder Singh had developed physical relation with her forcibly. xxx.... xxx.... xxx....

xxx.... xxx.... xxx.... Meera Devi had told me that Maninder Singh had physical relation with her when he had taken her to the house of the Jagtar Singh.”

20. The statement that Meera Devi had told him about petitioner having physical relationship with her, has rightly been believed. Having thus discussed, the material evidence as above about the conduct of the petitioner while acting as judicial officer, we find that enquiry officer had drawn the following inferences on the basis of evidence that was tendered before him. We quote the following portions from the report, which read thus:

“xxx.... xxx.... xxx.... The deceased official was stated by P.W.1 and P.W.2 to have responded, in warmer terms, by handing over seven letters (which she had written to complain against the C.S.O. who was pressing her to marry) to the wife of the C.S.O. a female is, by nature, an embodiment of emotion.

There is nothing un-natural if the deceased official responded to the entreaties of the wife of the C.S.O. not to send the complaints against the C.S. O. to the higher authorities.

The best C.S.O. could do, to rebut that part of the evidence, was to produce his wife in the witness-box. As per statements of P.W.1 and P.W.2, the wife of the C.S.O. was accompanied by a gunman. The gunman was examined as a witness in the enquiry proceedings, but he did not utter a word in that behalf. It was the wife of the C.S.O. only, who was a party to what transpired between her and the deceased official. The deceased official is dead; while the wife of the C.S.O. is living. If there was even an iota of truth in the plea taken up the C.S.O. there is no reason why he would not have persuaded his wife to enter the witness-box and nail the role attributed to her by the parents of the deceased official.

xxx.... xxx.... xxx.... As will be evidence from the statement of PW.11 Smt. Urmil, Assistant English Clerk in the office of the District and Sessions Judge, Amritsar and also a perusal of Exhibit P-4 (proved by PW-3 Shri Sushil Kumar, Reader in the court of Civil Judge (junior Division), there are certain dates on which were on leave. For example, both were on leave (full day) on 13-7-1994, 19-7-94 and 12-12-94. The application for 12-12-1994 is undated and it had been sanctioned by the Presiding Officer/C.S.O.

without obtaining the report of the Reader. As per practice, whenever an official applies for grant of leave, the Reader would make a report about the entitlement or otherwise thereof and it is thereafter only, that the leave application would be put up before the Presiding Officer concerned for orders. The fact that it was an undated application and also the fact that the C.S.O. sanctioned it without obtaining the report of the Reader go a long way to justify an inference that there was obviously something more than meets the eye as between the C.S.O. and the deceased lady official.

xxx.... xxx.... xxx.... I have not been able to persuade myself to find force in the plea. The parameters of proof, required in criminal trial, are entirely different from the standard of proof required in a departmental enquiry. Even otherwise, at a criminal trial, it is entirely different aspect which has to be adjudicated upon. However, in a departmental enquiry, it is altogether different facet of things, which has to be examined. In the case of later, it is the conduct of a public servant, in relation to a particular incident, which has to be gone into.

xxx.... xxx.... xxx.... The following facts, as culled out from the above narration, emerge on the file:-

(i) The C.S.O. and the deceased official had romantic liaison and there were sign of defloration when the dead body of the letter was subjected to

post-mortem examination. The C.S.O. emotionally black-mailed her in order to be able to possess her and once the purpose was effectuated, he started maltreating her and she was forced to commit suicide by consuming a poisonous substance in the Court itself, due to the environment of shock and defame suffered by her. This proves charge No.1 against the C.S.O.

(ii) The second charge against the C.S.O. also stands established because there is ample material on the file to prove that the C.S.O. stood between her and the law by ensuring that her dying declaration was not recorded. The C.S.O. did so with a view to screen himself from the legal consequences. The act of abstinence on the part of Sub Inspector Tarsem Parkash and the doctors attending upon Ms. Meera Devi from recording her dying declaration indicates that they were under the influence of the C.S.O. being a locally placed Judicial Officer.”

21. The upshot of the above discussion regarding the availability of evidence is that there is voluminous evidence on record to hold the petitioner guilty of both the charges leveled against him. Thus this is not a case of no evidence or any ignorance of any evidence, as contended.

22. The next question is about the submission about the disproportionate punishment. We find that the petitioner was a member of judiciary. The faith of the common people in the judiciary certainly gets shaken when they come to know about such a vicious and immoral conduct of a member of judiciary. Strict discipline and morality is the

hallmark of the institution of the judiciary. A member of judiciary is not a government servant but he is a public servant whose job is totally different from the ordinary sense of service under the government. It has its own different facets. To allow the petitioner to re-enter the institution of judiciary would be bizarre. By no stretch of imagination this Court would consider the punishment of dismissal of the petitioner from the service as disproportionate.

23. In the result, we find no merit in the present civil writ petition. Consequently we make the following order:

ORDER

- (i) CWP No.10221 of 2001 is dismissed.

(A. B. CHAUDHARI)
JUDGE

18TH JANUARY, 2018
‘raj’

(INDERJIT SINGH)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>