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

**CWP No.5015 of 2006 (O&M)
Date of decision: August 07, 2018**

Ajay Singhal

.....Petitioner

Versus

State of Haryana and others

....Respondents

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

Present: Mr. Girish Agnihotri, Senior Advocate with
Mr. Arvind Seth, Advocate for the petitioner.

Ms. Tanisha Peshawaria, DAG Haryana.

Mr. Atul Bhatia, Advocate for respondent No.2.

A.B. CHAUDHARI, J

By the present petition, the petitioner has put to challenge order dated 12.12.2005 (Annexure P-9), by which he was dismissed from service as HCS Judicial Officer. There is further prayer for quashing the Haryana Civil Services (Punishment & Appeal) Rules, 1987 (for short 'Rules'), where no right of appeal was provided. Further prayer is made for quashing the Inquiry Report dated 28.02.2005 (Annexure P-4).

FACTS

2. The petitioner joined as a Civil Judge (Junior Division-cum-Judicial Magistrate) Second Class at Rohtak, on 03.05.1997, after his selection as such. On 24.08.1997, he was transferred from Rohtak to Karnal and thereafter, was transferred to Chandigarh on 03.06.2000 and

remained posted at Chandigarh till the impugned order was passed. His disposal was progressive. Respondent No.3-Shri H.S. Bhalla was his District Judge at the relevant time at Chandigarh and he had been inimical to him for the reasons given by him in Para 5(I), 5(II), 5(IV) and 5(V) of the writ petition. Accordingly, respondent No.3 wanted to take revenge against him and that is the reason why action was taken by the High Court for holding inquiry against him and ultimately, dismissing him from service.

3. According to the petitioner, on 21.08.2002, at about 3.30 P.M., he was asked to attend the chamber of the learned District and Sessions Judge, where, respondent No.3 shouted at him that he had taken ₹10,000/- from 3-4 litigants through reader of the Court Shri Puran Chand, but the petitioner denied the same at the outset. Respondent No.3 told him that report was required to be submitted to the High Court about it on the same day, and therefore, the petitioner should submit explanation or should face the police which was already summoned and were waiting down stairs. Respondent No.3 manipulated the scene. Thus, he created an atmosphere so much of the pressure that a writing was taken from him under threat and fear of police action, which was, obviously, not voluntarily and thus, the writing was extorted and misused by respondent No.3 and ultimately by the High Court. The petitioner was served with charge-sheet dated 30.01.2003 *inter alia* on the ground that while posted as Civil Judge (Jr. Division)-cum-Rent Controller, Chandigarh, the petitioner received illegal gratification of ₹10,000/- from Shri Ashok Kumar, litigant, in the presence

of Shri Puran Chand, Reader of his Court, at his residence for deciding the case in his favour, and thus, committed serious major misconduct. Regular inquiry was held and Enquiry officer submitted his report dated 28.02.2005. Thereafter, on 15.03.2005, High Court issued show-cause notice to the petitioner and requested the petitioner to show cause as to why report of Enquiry Officer should not be accepted for inflicting major penalty. The petitioner sought extension of time to file reply to the show-cause notice and ultimately, he submitted his report to the show-cause notice. The petitioner sought personal hearing before the impugned order was passed, which was not given and therefore, the principles of natural justice were violated. The petitioner made representations, but of no use.

ARGUMENTS

4. In support of the writ petition, Mr. Agnihotri, learned Senior counsel for the petitioner vehemently argued that the enquiry report as well as the order of dismissal from service is completely illegal, misdirected and misplaced. He submitted that the petitioner had specifically asked for opportunity of hearing before the order of termination of his service, but the same was not at all given and therefore, the dismissal from service is vitiated. He, then submitted that the enquiry report that was supplied to the petitioner was required to be given at the first stage of enquiry and denial thereof amounted to denial of right to defend himself and prove the innocence in the disciplinary proceedings. According to him, there are two stages and the first stage ends when the disciplinary authority arrives at the conclusions on the basis of evidence,

report and the reply of the delinquent. In the present case, reply of the delinquent was not sought at the first stage. The second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions. The delinquent had right to receive the report at the first stage and therefore, in the absence of supply of enquiry report at the first stage, the enquiry was vitiated and is liable to be quashed and set aside. He also submitted that the enquiry officer of the High Court has placed reliance on the alleged admission made by the petitioner, which could not at all be taken into consideration since, as stated earlier, the alleged admission was obtained by respondent No.3 under pressure and threat of police etc. According to him, even in the enquiry, the charge was not proved because Shri Puran Chand did not support the Department in the enquiry. He, therefore, submitted that the petition is required to be allowed with reinstatement of the petitioner in service with all consequential benefits.

Learned Senior counsel relied on the decisions in the case of **Managing Director, ECIL, Hyderabad** versus **B. Karunakar**, 1993 (4) SCC 727 and in particular Para 27 thereof. He also relied on the decision in the case of **Indu Bhushan Dwivedi** versus **State of Jharkhand and another**, 2010 (11) SCC 278, in which the same principle has been reiterated.

5. *Per contra*, learned counsel for the respondents vehemently opposed the petition and submitted that the petitioner was given fullest opportunity at every stage and a long drawn enquiry was held against him.

The petitioner fully participated in the enquiry and he does not have any reason to make any grievance about the conduct of the enquiry. The enquiry report itself shows that the petitioner was given full opportunity to defend and he has no reason to make complaint that he was not given opportunity. The petitioner was also supplied the copy of the enquiry report before asking his reply to the show-cause notice, and therefore, there was full compliance of the existing law in that regard. Not only that, in fact, the petitioner had submitted his reply to the show-cause with all details in the reply. He cannot, therefore, claim that he did not receive enquiry report. The petitioner did not make any such grievance at the relevant time. The respondents, therefore, prayed for dismissal of the petition.

CONSIDERATION

6. We have heard the learned counsel for the rival parties at length. We have perused the entire record with the assistance of the learned counsel for the rival parties. At the outset, dealing with the submission made by the learned Senior counsel for the petitioner about supply enquiry report, we find that after the decision in the case of **Union of India & Ors** v. **Mohd. Ramzan Khan**, 1991 (1) SCC 588, by the Supreme Court, it was necessary to give a second show-cause notice along with enquiry report so that the delinquent is aware about the contents of the enquiry report and would thereafter, prepare his reply with reference to the adverse findings against him. It is not in dispute that in the present case, the enquiry report was given to the petitioner along with show-cause

notice and he was asked to explain everything stated in the enquiry report. Therefore, it is not that the petitioner was deprived of any opportunity of supply of enquiry report. He was given the copy of enquiry report well in advance before taking any action against him. He had sufficient time to file reply to the show-cause notice after perusing the enquiry report. Though, it is true that he had sought extension of time, fact remains that he himself did file his detailed reply to the enquiry report. We have perused his detailed reply and we find that his reply to the show-cause notice runs into 30 pages, vide dated 31.03.2005. We have, therefore, no doubt that the petitioner was given full opportunity to see whatever material was discussed in the report of the enquiry officer. We are therefore, unable to agree with the submission made by learned Senior counsel that in the first stage, petitioner was not given any enquiry report and that he was denied the reasonable opportunity of being heard. At any rate, it is also significant to note that the petitioner never made any such grievance about first stage or second stage to the authority and therefore, it is too late in the day to make such a grievance.

7. The next submission made by learned Senior counsel for the petitioner was about grant of personal hearing. It is not in dispute that after receipt of reply, the High Court took the decision after going through the same and the entire record. His detailed reply was considered by the High Court. There is no such procedure of grant of hearing when the petitioner was fully heard during the course of enquiry. He had participated in the enquiry with full force during the entire period when

the enquiry was held against him. It is not understood what sort of hearing now the petitioner wanted. We, therefore, reject the submission that the petitioner should have been given personal hearing.

8. Learned Senior counsel for the petitioner wanted us to test the correctness of the findings recorded by the enquiry officer on the evidence documentary as well as oral. In the case of **Union of India and others** versus **P. Gunasekaran**, (2015) 2 SCC 610, the Apex Court has stated thus, in Para-12:-

“12. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.”*

Nevertheless, we have gone through the entire evidence as

well as findings recorded by the enquiry officer. Suffice to say that we are fully satisfied that there is no perversity on the part of the enquiry officer regarding the findings which are based on evidence. To state in short, what we find is that the petitioner had, in clear-cut term made an admission about taking bribe and the misconduct committed by him, which was unbecoming of judicial officer working in a judiciary. Admission made by him before respondent No.3, in the presence of two Additional District Judges, who also deposed before enquiry officer was clearly proved. Nay, the petitioner admitted that he had given such admission, but his only defence was that such admission was given under pressure for which, there is no material on record to draw any such inference. It would be better we reproduce relevant portion from the enquiry report, which read thus:-

“.....PW2 Sh. Puran Chand also resiled from his earlier statement and stated that though the statement bears his signatures and thumb impression, yet when he reached the court, his statement was already typed and he was asked to sign the said statement by the District Judge. He has admitted that the Rent Application titled as 'Ashok Kumar Vs. K.C. Ghugh’ was fixed for recording of the evidence of respondent on 17.8.2002.

PW3Sh. J.S. Klar has proved the statement Ex.PW3/A dated 21.8.2002 made by Sh. Ajay Singhal, the then Civil Judge by deposing that in his presence the District and Sessions Judge asked Sh. Ajay Singhal; if the fact with regard to receiving of money (through bribe) through his Reader is correct, then Sh. Ajay Singhal confessed in their presence before Sh. H.S. Bhalla that he had received bribe money on

three-four occasions through his Reader and he felt regretful for that and stated he would not repeat this type of mistake again. Sh. Ajay Singhal further stated that his reader had brought the litigants to his house in connection with bribe money. Thereafter, the learned District & Sessions Judge asked him to give the same in writing. Then Sh. Ajay Singhal scribed a writing to that effect. He identified the writing Ex.PW3/A having been scribed, signed and handed over by Sh. Ajay Singhal to Sh. H.S. Bhalla. He further deposed that the writing ex.PW3/A made by Sh. Ajay Singhal and confessional statement made by SH. Puran Chand Ex.PW4/A are voluntary and without any threat or pressure.

PW.4 Sh. Arun Singh Thakur, Judgment Writer (Sr. Grade) also stated that he recorded the statements of Sh. Puran Chand Ex.PW4/A. Sh. Lakhbir Singh, Mrs. Sneh Prashar and Sh. K.S. Klar, Additional District & Sessions Judge posted at Chandigarh at that time. He has stated that besides him, Sh. H.S. Bhalla, Sh. Lakhbir Singh, Mrs. Sneh Prashar and Sh. J.S. Klar were present when Sh. Puran Chand made statement. He also made his statement before the District & Sessions Judge in connection with the occurrence which happened before him. During cross-examination, he has also stated that he recorded the statements of Sh. J.S. Klar, Mrs. Sneh Prashar as well as of Sh. Lakbir Singh.

PW.5 Sh. H.S. Bhalla, District & Sessions Judge Chandigarh has reiterated the version of the facts which occurred before him. He has also proved the statements of Sh. Mukesh Mittal, Advocate Ex.PW5/A, writing of Sh. Ajay Singhal, delinquent officer, Ex.PW4/A, statements of Sh. Puran Chand Ex.PW4/A, Sh. J.S. Klar and Mrs. Sneh Prashar Ex.PW5/C & Exc.PW5/D, repetitively statement of Sh. Amar Singh Ex.PW5/B, statement of Sh. Arun Singh Thakur

Ex.PW4/B, statement of Sh. Ashok Kumar Ex.PW5/E, the statement of Sh. Puran Chand recorded on 22.8.2002 Ex.PW5/F (vide which he had identified Sh. Ashok Kumar who had paid Rs.10000/- to Sh. Ajay Singhal by going to his residence in his presence).

PW.6 Mrs. Sneh Prashar has also proved her own statement which she made before Sh. H.S. Bhalla in connection with the recording of statement of Sh. Puran Chand and also scribing of writing by Sh. Ajay Singhal in her presence.”

9. The petitioner examined himself as DW1 and stated thus:-

“.....He also admitted his handwriting and signatures over the writing Ex.PW3/A and that he submitted the writing Ex.PW3/A to the District & Sessions Judge, Chandigarh on 21.8.2002. He denied if the writing Ex.PW3/A was voluntary. He has further stated that he did not protest against the writing at any point of time since it was submitted till the charge-sheet was served upon him. He also did not make any complaint against Sh. H.S. Bhalla regarding his behaviour of dated 21.8.2002. He had no differences with the three Additional District & Sessions Judges present at the time when writing Ex.PW3/A was submitted by him to the District & Sessions Judge.....

.....First of all, there is clear-cut admission made by Sh. Ajay Singhal, through a writing Ex.PW3/A submitted to the District & Sessions Judge, Chandigarh admitting the factum with regard to his indulgence in corruption and receiving illegal gratification. Here at the cost of repetition, the writing Ex.PW3/A is reproduced as under:-

“I Ajay Singhal, Civil Judge (Jr.Divn.), Chandigarh submit that my Reader Sh. Puran Chand

introduced 3/4 litigants, to me, at my residence and offered sweets box containing Rs.10000/- with the request to help them. I feel extremely sorry for this, and such thing will not be repeated in future. I assure your goodself. Kindly forgive me. The amounts will be returned. I request you to take kind view.”

This admission is in the hand of the delinquent officer and was scribed before any proceedings were initiate against him. Sh. Ajay Singhal while appearing in the witness box has admitted that the writing Ex.PW3/A is in his hand and is bears his signatures and he submitted the same to the District & Sessions Judge, Chandigarh on 21.8.2002. The relevant extract of his statement is reproduced under:-

“It is correct that original of Ex.PW3/A is in my hand-writing and bears my signatures. It is correct that I submitted the writing to the District & Sessions Judge, Chandigarh on 21.8.2002.”

This writing Ex.PW3/A having been scribed and furnished by the delinquent officer has also been proved by two members of Superior Judicial Services i.e. PW3 J.S. Klar and PW6 Mrs. Sneh Prashar, Additional District & Sessions Judge posted at Chandigarh at that time. Sh. J.S. Klar while appearing in the witness box as PW3, besides proving the fact that Sh. Ajay Singhal scribed the writing and signed the same in his presence and submitted the same to the District & Sessions Judge, Chandigarh, has further submitted that when Sh. H.S. Bhalla, District & Sessions Judge asked Sh. Ajay Singhal as to whether the fact with regard to receiving of some money through bribe through his Reader is correct then the delinquent officer confessed in their presence before Sh. H.S. Bhalla that he had received the bribe money on 3-4 occasions through his Reader and he felt regretful for that

and had stated that he would not repeat this type of mistake again. He had also admitted in their presence that his Reader had brought the litigants to his house in connection with the bribe money. Thereafter when Sh. H.S. Bhalla, District & Sessions Judge, Chandigarh, Sh. J.S. Klar has also further gone on to state that there was no pressure on the mind of the delinquent officer. He had voluntarily confessed and gave the writing Ex.PW3/A to him. This witness has no motive and was not nursing any bias or prejudice against the delinquent officer for depositing against him. No imputation has been alleged or suggested against Sh. J.S. Klar, Additional District & Sessions Judge for deposing against Sh. Ajay Singhal. It was not suggested to this witness that he made a false statement rather it has been suggested to him that his statement was recorded on Computer as some mistake he cropped in his typed statement. This witness has been cross-examined at length but nothing incriminating could not elicited against the witness so as to falsely his statement.

CONCLUSIONS

On scrutiny of the evidence and the admission made by Sh. Ajay Singhal, delinquent officer, through writing Ex.PW3/A, it will be safe to conclude that Sh. Ajay Singhal, delinquent officer, accepted bribe of Rs.10000/- from Sh. Ashok Kumar, litigant, in the presence of Sh. Puran Chand, Reader of his Court, at his residence in a sweets box for deciding a rent petition titled "Ashok Kumar and another vs. K.C. Chugh" and he thus, acted in a manner unbecoming of a Judicial Officer by violating Rule 3(1) and (iii) of the Govt. Employees (Conduct) Rules, 1966 (as applicable to the State of Haryana)"

sure, after considering the entire record that the petitioner had admitted that he had accepted bribe amount of ₹10,000/-. The law is trite that the admission is the best piece of evidence. Nevertheless, the enquiry officer did not choose to rely only on the admission, but recorded the evidence of all the concerned judicial officers in the rank of District Judge and Additional District Judges. In that view of the matter, we think, even on evidence, the charges against the petitioner were proved and are serious. In no case, it could be said that there was any disproportionate punishment even applying the Wednesbury's principle. In the result, we find no merit in the present writ petition. Hence, we make the following order:-

ORDER

CWP No.5015 of 2006 is dismissed. No order as to costs.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

August 07, 2018

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No