

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

**CWP-5617-2011 (O&M)
Date of decision : 14.08.2018**

Santosh Kumari

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Khurana, Advocate for the petitioner.

Ms. Deepali Puri, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ in the nature of Certiorari for quashing order dated 25.11.2010 (Annexure P-5), passed by respondent No.1, whereby, she has been reverted from the post of Block Development and Panchayat Officer to the post of Senior Assistant (Accounts).

The list of charges as per the charge-sheet (Annexure P-1), served upon the petitioner, reads as under:-

- “1. To misutilise the funds in Block Phul.*
- 2. To purchase vehicle in violation of prescribed norms and by misuse of powers.*
- 3. To purchase vehicle out of the amount of liquor tax grant and by not paying salary to the employees of Phul Samiti.*
- 4. To over look Panchayat Samiti's resolution dated*

9.12.2005.

5. *To act contrary to resolution dated 26.5.2006 passed at Block Maur.*

6. *To purchase vehicle in wrong name.*

7. *To overlook the Government instructions.*

8. *To adopt wrong procedure for condemnation of vehicle.*

9. *To get the budget approved in a wrong manner.*

10. *To make unnecessary correspondence.”*

It is contended that the allegation with regard to purchase of vehicle out of the funds meant for disbursement of salaries to the employees of the Panchayat Samiti, is against the record. An amount of Rs.6,29,198/- was lying in the account of the Panchayat Samiti, Phul, out of which a sum of Rs.5,20,116/- was spent for the purchase of vehicle. Moreover, another amount of Rs.9,63,217/- was still lying in the accounts of the Samiti over and above the amount of liquor tax. The allegation that the vehicle was purchased without following the DGS&D rate contract is not supported by any documentary evidence. As regards the allegation of non-condemnation of the earlier vehicle, it is submitted that the said vehicle was more than 15 year old with mileage of 2,74,000/- kms., therefore, it had already lived its life. The vehicle was purchased after following the norms and procedures and after passing of resolution by Panchayat Samiti in this regard. Furthermore, the vehicle was purchased from the funds of the Panchayat Samiti, therefore, the approval of the Government was not required to be obtained.

On the other hand, learned State counsel submits that the

vehicle in question was purchased without following the procedure prescribed. The earlier vehicle was not condemned beforehand. The vehicle was purchased from the private firm. She further states that the vehicle purchased from the private dealer had a higher rate.

Heard.

As per the notification dated 08.08.1996 of the Motor Vehicles Board, Government of Punjab, the life of the earlier vehicle is nine years or 2.40 lakh kms. The vehicle in question, if fact, had become condemned much prior to the replacement. As far as the allegation with regard to purchase of the vehicle on a higher rate is concerned, no comparative chart has been referred to either in reply or has been placed on record. The respondents have nowhere placed before the Court the Rules which the petitioner had allegedly violated. Except the bald assertion that the vehicle in question was a Deluxe model, there is no document on record to prove the same. Rather, it is established on record that the vehicle purchased is the base model of Bolero and not air-conditioned deluxe model. The petitioner has raised specific averment that other blocks of District Bathinda and District Ludhiana had also purchased the same vehicle for the same price. However, there is no rebuttal of the arguments in the reply. The respondents have also not been able to prove on record the alleged loss caused to the State Exchequer.

In fact, the onus is on the respondents to provide vehicles to the officers for their mobility to serve the public purpose. The Court feels that instead of providing amenities to its officers, the State has rendered the

officer to move in an unsafe vehicle. Once the vehicle had been purchased, technical riders had been introduced and operated against the petitioner which ought not have been resorted to. At the most, the petitioner can be said to have acted in haste in purchasing the vehicle but no mala fide as such can be attributed to her. The Court feels that it is a case of procedural irregularity, if any, and not illegality which may call for reversion. No reasons have been assigned by the punishing authority while disagreeing with the opinion to that of Punjab Public Service Commission, which recommended that it is not a case where the petitioner should be reverted, rather a penalty of stoppage of one or two increments with cumulative effect may be imposed. The plea of the petitioner that she is a victim of political vendetta, appears to be plausible. The punishment imposed (Annexure P-5) does not at all commensurate with the allegations levelled against her and does not pass the litmus test of fairness and reasonableness.

In view of the above discussion, the instant writ petition is allowed and the impugned order of reversion dated 25.11.2010 (Annexure P-5), being illegal, is hereby set aside and the benefits, if any, withheld be released to her within three months from the date of receipt of the certified copy of this judgment.

14.08.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No