

683

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

**CWP No.9003 of 2010 (O&M)
Date of decision: October 25, 2018**

Anantdeep Singh

.....Petitioner

Versus

The High Court of Punjab and Haryana at Chandigarh
and another

....Respondents

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

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Nishant Bhardwaj, Advocate for the petitioner.

Mr. Gaurav Chopra, Advocate for respondent No.1.

Ms. Anju Arora, Additional AG Punjab.

A.B. CHAUDHARI, J

By the present writ petition, the petitioner-Anantdeep Singh has put to challenge the order dated 17.12.2009 communicated by order dated 24.12.2009 (Annexure P-13), by which his services were dispensed with and also for quashing the order dated 07.12.2009 (Annexure P-10) by which the judicial work was withdrawn from him.

FACTS

2. The petitioner was selected and appointed to the Punjab Civil Services (Judicial Branch) vide order dated 26.10.2006 (Annexure P-2) and was posted to work as Civil Judge (Junior Division), Ferozepur, on 12.12.2006. He worked there with no adverse remark or report or any charge-sheet or show-cause notice. The statements regarding work were

found to be 'Good/Very good' as per monthly remarks. The petitioner also qualified in the departmental examination on 16.11.2007 and had completed mandatory training period of one year from the Chandigarh Judicial Academy, Chandigarh. Thereafter, he was transferred from Ferozepur to Moga, District Faridkot, where he joined on 03.06.2008. The petitioner had married on 08.02.2004 but in the year 2005, there were some misunderstanding between him and his wife and as such, they started living separately. In November 2008, her wife and her parents forcibly occupied his official accommodation and created scene and therefore, the petitioner was forced to leave the official accommodation. The District and Sessions Judge, Faridkot having come to know about it asked him whether he was living in official residence to which he filed reply that because of the matrimonial dispute, he was not residing in official residence, but his wife and her parents were residing therein.

3. That in December, 2008 and on 09.02.009, the Administrative Judge of the High Court called the petitioner and asked about the complaint against him by his wife and advised to reconcile the dispute with his wife. The petitioner had thus, matrimonial dispute which had nothing to do with the judicial work nor the High Court was concerned with the same. As such, the petitioner completed three years after joining service. Obviously, the probation period being of 2 years he was deemed to be confirmed in service. The petitioner and his wife had resolved their dispute in the meanwhile and filed representations to the High Court accordingly, on 10.12.2009 (Annexure P-9 colly), but his judicial work

was withdrawn earlier on 07.12.2009 and thereafter, the impugned order was passed, though, the dispute was settled between his wife and himself. On 12.12.2009, even divorce petition was decided in Lok Adalat and the petition was withdrawn. There was, therefore, no reason or the cause of action for the High Court to dispense with his services merely because a private dispute existed between him and his wife, which also was finally set at rest. The orders impugned are, therefore, liable to be quashed and set aside in the present petition.

ARGUMENTS

4. In support of the writ petition, learned Senior Counsel for the petitioner vehemently contended that the petitioner had infact, from the date of his posting or joining and appointment completed three years as on 11.12.2009 and therefore, he was liable to be deemed to be confirmed in service particularly, because permanent vacancy existed at that time. According to him, the real reason for dispensing with the services of the petitioner was not the alleged unsatisfactory work because the record shows that the work of the petitioner was quite satisfactory and there was no complaint about his work as such. Therefore, the real reason for dispensing with the services was the matrimonial dispute between his wife and himself with which the High Court had nothing to do and at any rate, the same could not be utilized by the High Court for dispensing with his services particularly because the petitioner did not remain on probation. Even assuming but not accepting, the petitioner was a probationer, the private matrimonial dispute between him and his wife, which eventually

was also settled, did not give any reason to the High Court to dispense with the services and therefore, the entire exercise is illegal. According to the learned Senior counsel for the petitioner, the High Court could not have relied upon the initial complaint by the wife of the petitioner against him nor the report of the District and Sessions Judge, Faridkot about other things which have been mentioned regarding the use of car of Naib Court and so on and so forth, without hearing him. The petitioner was never made aware about any such allegations nor was called upon to explain the same. The entire action of the High Court, is therefore, violative of the principal of natural justice. The action to dispense with his services is for extraneous reasons. Hence, he prayed for allowing the petition with full benefits to the petitioner.

5. *Per contra*, learned counsel for the respondents vehemently opposed the writ petition and submitted that the petitioner did not exhibit the required conduct and behavior by a judicial officer during the period of probation. His performance during the probation period was watched. The District and Sessions Judge, Faridkot as well as Administrative Judges finally found that he was not suitable to be retained in service. His services were therefore dispensed with without attaching to him any stigma. The decision was initially taken by a Committee consisting of the Hon'ble Judges of the High Court and thereafter, the full Court had applied its mind to the entire matter to dispense with the services. The material against the petitioner was such that he could not be retained in service.

6. The next submission made by the learned counsel for the respondents is that in accordance with the decisions of the Supreme Court in the cases of **Sate of Maharashtra versus Veeranppa R. Saboji and others**, 1979 (4) SCC 466 and **Registrar, High Court of Gujarat versus C.G. Sharma**, (2205) 1 SCC 132, which have been relied upon by the High Court, there cannot be automatic confirmation of the petitioner until and unless, the employer by applying its mind and by order in writing makes confirmation or otherwise of the employee. The petitioner is under misconception about law regarding confirmation of probationer. Learned counsel for the respondents, therefore, prayed for dismissal of the writ petition.

CONSIDERATION

7. We have heard learned counsel for the rival parties at length. We have also seen the original record that was produced before us in a sealed cover. Upon hearing the learned counsel for the rival parties, at the outset, the submission regarding automatic confirmation of the probationer merely because he had worked for three years will have to be rejected outright. We need not record reasons therefore, as the committee had rightly relied upon the Apex Court decisions in the cases of **Veeranppa R. Saboji** and **C.G. Sharma** (supra). We quote the following from the minutes of the meeting dated 18.11.2009 (Annexure P-22), which reads as under:-

“The Committee perused the meeting note and finds that period of three years from the date of joining is expiring soon.

The Committee is of the view that period of three years should be counted from the date of joining after completion of training and if necessary, the rule may be clarified accordingly. It may also be desirable to consider further clarification to bring the Rules at par with the Rules considered in Sate of Maharashtra versus Veeranppa R. Saboji and others, 1979 (4) SCC 466 and Registrar, High Court of Gujarat versus C.G. Sharma, (2205) 1 SCC 132 which have been interpreted to mean that there is no automatic confirmation unless after assessment of work and conduct of the officer, a conscious decision to confirm or not to confirm is taken.

Hon'ble Mr. Justice Rajesh Bindal apprised the committee of his having dealt with complaint against Shri Anantdeep Singh in the light of a report received from the District & Sessions Judge. He also gave his report in a sealed cover. In view of this Hon'ble Mr. Justice Rajesh Bindal did not participate in the proceedings.

The Registrar general may put up the said record for consideration of the Committee. He may also ensure that all material pertaining to work and conduct of the officers is put up before the Committee. It is seen that in spite of there being adverse material against some of the officers, the same has not been projected in reports of District Judges or even in meeting note. The Committee is of the opinion that latest report on the work and conduct of the officers be obtained from the District Judges and the Hon'ble Administrative Judges may also be requested to give their opinion in the matter. The meeting note must indicate true factual position relating to all concerned officers.

Put up again on 1.12.2009.”

We are in full agreement with the view taken by the committee

based on the Apex Court's decisions that there cannot be automatic confirmation as contended. We, therefore, reject the first submission.

9. Having thus, disposed of the first submission, we then, find that the petitioner having joined the services indulged in abnormal and unbecoming conduct. The wife of the petitioner made allegations against him. Be that as it may, according to the petitioner himself, he obtained official accommodation for his residence and what is surprising is that he did not reside in said official accommodation but according to him, his wife and her parents started forcibly residing in said official accommodation. In other words, the petitioner meekly surrendered the official accommodation to his wife and her parents and he started residing outside away from the official residence. Such a conduct of a judicial officer obviously was strange and bringing disrepute to the institution. Such a conduct on the part of the petitioner to have the official residence, reside somewhere else and then make a complaint about forcible occupation does not behove of a judicial officer. This position was admitted by him as he made complaint to the District and Sessions Judge, Faridkot, accordingly. In other words, he was not in a position to retain control on his own official accommodation. Next surprise is that he made a complaint to the District and Sessions Judge to get his official accommodation vacated as if he had taken permission from the District and Sessions Judge earlier for allowing the entry of unauthorized persons as stated by him. This conduct on the part of the petitioner, in our opinion, is highly irresponsible and certainly the High Court does not need such

judicial officer.

10. The District and Sessions Judge, Faridkot, in a report dated 20.05.2009, stated about the allegations made by the mother-in-law of the petitioner, Mrs. Kulwant Kaur, Principal, Government College, Faridkot that the petitioner was living separate from his wife and was assaulting his wife. In Para-4 of the said report, it is stated that at midnight 12:45 hours intervening 06/07.02.2009, Mrs. Kulwant Kaur, mother-in-law of the petitioner, informed the District and Sessions Judge, Faridkot that the petitioner had visited their house under the influence of alcohol and assaulted and misbehaved with her daughter, i.e. the wife of the petitioner. It was also stated that he was accompanied by a Punjab Home Guard official, namely PHG-Gurjant Singh, who was also under the influence of alcohol and the said official also misbehaved with her daughter. The petitioner was moving in a private car silver metallic color make TATA INDICA bearing registration No.GJ-12-AE-0102, which was with Naib Court, Kuldeep Singh, who is facing criminal trial along with other police officials in the Court of Mrs. Amarjot Bhatti, Additional Sessions Judge, Moga, for offence under Section 15 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

11. Apart from that the District and Sessions Judge, Faridkot sent a report dated 02.12.2009 incorporating the aforesaid fact in addition to the further facts that the petitioner resided in Sandhu Guest House for six months and that the said guest house was arranged by Naib Court and further that the petitioner was using the car of Kuldip Singh Naib Court

and used to drink liquor anywhere. His wife also got recorded her statement that the petitioner used to send obscene messages with obscene language to her. That was the statement of his wife, which was recorded. It is surprising that a judicial officer entering the judiciary as a probationer indulge in such type of vicious and sinister conduct. The District and Sessions Judge, Faridkot also reported that he tried his level best to ask the petitioner to reside in his official accommodation which he had taken but to no use. That shows that even the District and Sessions Judge, Faridkot was also fed up with the behaviour of the petitioner. There was further allegation about the petitioner having illicit relationship with some other judicial officer, but then we omit the same from consideration. However, the report aforesaid sent by the District and Sessions Judge, Faridkot to the High Court shows vicious conduct on the part of the petitioner.

12. It is in the above background and in the light of the above discussion, the committee of the Hon'ble three Judges of this Court reviewing the work and conduct of the probationer, took a conscious decision to discharge the services of the petitioner.

13. The subsequent attempt by the petitioner and his wife to withdraw the dispute amongst them and so on and so forth as well as the divorce petition post order withdrawing judicial work of the petitioner, was of no consequence as decision was taken independently on the entire conduct of the petitioner.

14. To sum up, we do not find any merit in the present petition.

Hence, we make the following order:-

ORDER

CWP No.9003 of 2010 is dismissed. No costs.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

October 25, 2018

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No