

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

CWP No.23896 of 2013 (O&M)

Date of decision: 04.12.2018

Harbans Singh Chahal

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. P.K. Goklaney, Advocate for the petitioner(s)

Ms. Bhawna Gupta, DAG Punjab.

Jitendra Chauhan, J. (Oral)

The petitioner seeks quashing of order dated 19.07.2013 (Annexure P-14) vide which penalty to cut 10% pension for a period of one year had been imposed upon the petitioner.

While, the petitioner was working as Principal in the year 2003, he was given an additional charge of District Education Officer (SE), Ferozepur. He served on the additional post for the period from 21.11.2003 to 16.12.2004. On attaining the age of superannuation, the petitioner retired on 31.03.2011. During the tenure of the petitioner on additional charge, one Sukhmander Singh, PTI, Govt., Elementary School, Lohgarh, District Ferozepur moved an application seeking voluntary retirement. The case of voluntary retirement of said Sukhmander Singh was forwarded by the Incharge/Principal of the school that there is no complaint or enquiry whatsoever pending against him.

Thereafter, the petitioner, who had the additional charge of District Education Officer (SE), had only approved the application on the basis of reports of the dealing officials.

It is asserted that the petitioner had faced as many as four complaints filed by one Tarun Chanda and Ajit Singh, however, nothing incriminating was found against him. It is just before his retirement i.e. on 31.03.2011, that the department had issued charge sheet against the petitioner on 24.03.2011 and upon enquiry, he was found guilty whereby the impugned order (Annexure P-13) has been passed.

It is asserted that the petitioner was not at fault in any manner. The application of Sukhmander Singh was forwarded by concerned Principal and thereafter was dealt with by the dealing officials of the department. On the basis of report of dealing officials, the petitioner had only approved the application of said Sukhmander Singh. Even no action had been initiated against the beneficiary Sukhmander Singh and the concerned Principal who recommended the case to the department.

On the other hand, learned State counsel submits that departmental action was initiated against Sukhmander Singh and complaint in this regard was lodged with police. The Principal who recommended the case had expired on 31.10.2016.

Heard.

It is to be noticed that the application filed by Sukhmander Singh seeking voluntary retirement was dealt with at various levels of the

department. The petitioner was given the additional charge of District Education Officer. The application of Sukhmander Singh was forwarded and recommended by the Principal on the basis of office report prepared by the concerned clerk and Superintendent. Even, there is no explanation with regard to action taken and the punishment awarded to Sukhmander Singh who held the alleged fake degree. The Principal who recommended the case of the petitioner had expired on 31.10.2016, however, the department had not initiated any proceedings against him prior to his death. It is the department who appointed said Sukhmander Singh and had not verified his credentials and thereafter had recommended his case for voluntary retirement. The Court feels that the petitioner who was holding the additional charge, was made a scapegoat just to save the concerned delinquent officials. The impugned order is bad in law.

Keeping in view the above, the present petition is allowed. Consequently, the impugned order dated 19.07.2013 (Annexure P-14) is hereby set aside. The respondents are directed to grant the admissible relief in favour of the petitioner within a period of three months from the date of receipt of a certified copy of this order.

04.12.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No