

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

CWP No.1827 of 2017.

Date of Decision: 16.05.2018.

Charanjit Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. R.K. Arora, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG Punjab.

JITENDRA CHAUHAN.J.

By filing this petition under Articles 226 and 227 of the Constitution of India, the petitioner seeks setting aside of charge-sheet dated 24.07.2014 (Annexure P-5); Enquiry Report dated 27.04.2015 (Annexure P-8); order dated 05.11.2015 (Annexure P-10) whereby punishment of stoppage of two annual increments with cumulative effect has been imposed upon the petitioner and; order dated 15.07.2016 (Annexure P-12) vide which review appeal filed by the petitioner has been dismissed.

The petitioner joined as Lecturer on 17.09.1994. He was promoted in PES cadre as Principal on 16.02.2010. He was posted as Deputy District Education Officer (SE), Ludhiana on 04.11.2011. He was also given the officiating charge of the post of District Education Officer (SE), Ludhiana for about 2 months i.e. from 16.04.2014 to

09.06.2014. While officiating as such, the petitioner received a letter dated 12.05.2014 (Annexure P-1) from respondent No.1 which was addressed to the Circle Education Officer, Nabha and to the District Education Officer (SE), Ludhiana wherein directions were issued to ensure sending of service book of one Smt. Susham Goyal, Lecturer to her new place of posting at G.S.S.S., Sahnewal from her old school G.S.S.S., Ikloha. The petitioner immediately endorsed the said letter to the Principal, G.S.S.S., Ikloha vide endst. No. E-6/2014 dated 14.05.2016 with directions to send the compliance report in terms of Government letter. Thereafter, the Principal, G.S.S.S., Ikloha (Ludhiana) in response to above letter submitted her reply to the Government vide office letter dated 15.05.2014 (Annexure P-3) through proper channel. It was intimated to the Govt. that service record of Susham Goyal was not transferred because she had not handed over the charge of Ikloha school despite repeated requests. Ultimately, the complete service record of Susham Goyal was transferred to her new school on 21.07.2014. However, on 27.06.2014, Smt. Susham Goyal made a complaint to respondent No. 1 that her service record had not been transferred to her place of transfer. On the basis of said complaint, the petitioner was charge-sheeted vide charge-sheet dated 24.07.2014 (Annexure P-5). The petitioner submitted reply to the charge-sheet. However, finding the reply to be not satisfactory, the petitioner was found guilty vide inquiry report (Annexure P-8).

Thereafter, vide order dated 05.11.2015 (Annexure P-10), punishment

of stoppage of two annual increments with cumulative effect was imposed upon the petitioner.

It is contended by the learned counsel for the petitioner that the act of the petitioner in sending letter to Principal, Govt. Sr. Sec. School, Sahnewal is unintentional and *bona fide*. No prejudice has been caused to the complainant in sending letter to the school at Sahnewal. It is further contended that though, the letter was required to be sent to Govt. Sr. Sec. School, Ikolaha however, the petitioner while endorsing the letter to Govt. Sr. Sec. School, Sahnewal endorsed a copy of the same to the Govt. Sr. Sec. School, Ikolaha and as a matter of fact, the said letter was received by both the schools. Not only that, in response, the Principal of G.S.S.S., Ikolaha vide letter dated 15.05.2014 submitted her reply to Government assigning valid reasons for not sending the service record of Smt. Susham Goyal because she had not handed over the charge despite her transfer.

It is further asserted that the factum of endorsement of the letter to the Govt. Sr. Sec. School, Ikolaha has not been denied by the learned State counsel. It has also not been denied that vide letter dated 15.05.2014, Principal, G.S.S.S., Ikolaha wrote to Circle Education Officer, Nabha referring therein the letter issued by the latter.

On the other hand, the stand taken by the respondents is that the petitioner was required to send letter to Principal, Govt. Sr. Sec. School, Ikolaha, Ludhiana however, in defiance to the letter issued

by the Circle Education Officer, Nabha, the petitioner intentionally sent the letter to Principal, Govt. Sr. Sec. School, Sahnewal. The act of the petitioner has not only showed *malafide* intention on his part but also reflected his irresponsible behaviour which could not be expected from a senior officer, who is In-charge of the district, therefore, the petitioner has been rightly punished with stoppage of two annual increments.

Heard.

It is to be noticed that in the instant case, the petitioner has been awarded punishment of stoppage of two annual increments with cumulative effect for non-sending a letter to the Govt. Sr. Sec. School, Ikolaha. Smt. Susham Goyal had moved a complaint to respondent No. 1 to take action against the petitioner but if the totality of the circumstances is taken into consideration, it leads to an inevitable conclusion that the petitioner is sought to be persecuted on no existent score, because although the letter was sent to the School at Sahnewal, a copy of the same has also been sent to Govt. Sr. Sec. School, Ikolaha which has been proved during inquiry by PW-2, Narinder Kumar Senior Assistant who deposed that letter No.458 dated 15.05.2014 from G.S.S.S. Ikloha was received referring therein the letter issued by the Circle Education Officer, which was received in the office of CEO on 22.05.2014 and a copy thereof was also forwarded to the Government. In the aforesaid letter dated 15.05.2014, Principal, G.S.S.S., Ikolaha furnished justification for not sending the service

record of Smt. Susham Goyal as she had not handed over the charge despite her transfer. The response by the recipient of the letter clearly shows that it has received the former letter which it had responded to. Thus, the charge of not endorsing the letter to G.S.S.S., Ikolaha falls to the ground. Not only that, the punishment awarded to the petitioner does not commensurate with the act allegedly committed by him. Stoppage of two annual increments and that too with cumulative effect means forfeiture of service of two years. The punishment awarded smacks foul. Consequently, the present writ petition is allowed and the impugned charge-sheet (Annexure P-5), inquiry report (Annexure P-8), order of punishment (Annexure P-10) and the order whereby review application of the petitioner was dismissed (Annexure P-12), are hereby quashed.

Allowed.

16.05.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No