

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

CWP 26652/2017 (O&M)

Date of decision:22.05.2018.

Harsimarjeet Singh

.....Petitioner

v.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.JK Singla,Advocate for the petitioner

Jaswant Singh,J,(Oral).

Challenge in the present petition is to the order dated 25.08.2014 (Annexure P-1) passed by the Mission Director, National Health Mission,Punjab whereby his contractual services while serving as a Data Entry Operator were terminated on account of having misbehaved/beaten up a staff nurse.

A perusal of Annexure P-9 which is enquiry report conducted by the District Family Welfare Officer-cum-Investigation Officer, Office of Civil Surgeon,Bathinda reveals that alleged incident had occurred on 9.7.2014 and the matter was reported by Sumandeep Kaur,Staff Nurse to Dr.Amit Kamboj,SMO and the latter called the police telephonically.

During departmental enquiry, Sumandeep Kaur got recorded her statement reiterating the allegations made by her against the petitioner. Her version was corroborated by one Nasib Kumar, a Class IV employee who stated that on 9.7.2014 at about 12.45 when he was present in the

adjoining room of Chief Pharmacist, he heard the noise. On coming out of

the room he saw that Sumandeep Kaur, Staff Nurse was lying down and the petitioner was giving kick blows upon said Sumandeep Kaur, Staff Nurse. At this, Nasib Kumar intervened and saved Sumandeep Kaur from the petitioner. He further stated that thereafter Sumandeep Kaur went to the room of the SMO.

Further, Dr.Amit Kamboj, CHC Ballianwali stated that on 9.7.2014 Sumandeep Kaur complained to him about the misbehaving/beatings given to her by the petitioner whereafter he (Dr.Amit Kamboj) called the police telephonically besides forwarding her written complaint to SHO Balianwali.

It has further been noticed that prior to that also petitioner had harassed the Staff Nurse for which petitioner was warned by Dr.Harbans Singh, Incharge SMO.

To rebut the allegations levelled against him, petitioner led no cogent evidence to show that the complaint against him was made with a malafide intent.

At the time of hearing, learned counsel for the petitioner has laid emphasis on the judgment dated 7.6.2017(P-7) passed by JMIC, Phul whereby the petitioner was acquitted of the charges under Section 354, 354-A, 509, 323 IPC, PS Ballianwali.

After hearing the learned counsel and perusing the paperbook, in my opinion, no case for interference is made out.

Nature of criminal trial and departmental enquiry is altogether different. In criminal trial the prosecution has to prove the case to the hilt whereas the nature of departmental enquiry does not warrant so. The alleged incident stands proved and corroborated by fellow colleagues i.e. Nasib

Kumar and Dr.Amit Kamboj. It is not the case of the petitioner that both these witnesses were inimical towards petitioner or nursed any grudge against him. Keeping in view the nature of the allegations against the petitioner it can also neither be stated that the quantum of punishment is disproportionate to proved conduct of the petitioner. The petitioner was even otherwise employed on contract basis and even the incident was enough to dispense with his service, without initiating disciplinary proceedings.

Dismissed.

22.05.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No