

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

CWP-11770-2013 (O&M)
Date of decision : 18.01.2019

Gurcharan Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Namit Kumar, Advocate for the petitioner.
Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.
Mr. Bhupesh Dogra, Advocate,
for Mr. Amit Aggarwal, Advocate for respondent No.2.

JITENDRA CHAUHAN, J.

Prayer in the instant petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ of Certiorari, quashing charge-sheet dated 09.11.2009 (Annexure P-1), enquiry report dated 15.12.2010 (Annexure P-3) and order dated 24.10.2011 (Annexure P-7), whereby, the punishment of stoppage of three annual increments with cumulative effect had been imposed upon the petitioner.

The petitioner, a Lecturer in Political Science, was deputed as Centre Superintendent for the 8th Class Examination. On 04.03.2009, a routine checking was conducted by the Flying Squad but no incriminating material was found from any of the students. However, on 09.11.2009, the petitioner was issued a charge-sheet (Annexure P-1) on the allegations that the petitioner facilitated copying to the examinees on 04.03.2009 during final examination of Classes 8th, 10th and 10+2. The petitioner submitted

reply to the charge-sheet and denied all the charges. Without appreciating the reply filed by the petitioner, an enquiry was ordered to be conducted against the petitioner. The Enquiry Officer submitted an enquiry report (Annexure P-3) proving the charge against the petitioner. Accordingly, a punishment of *“Placing the petitioner at the lowest time scale of the salary, lower grade, lower post or minimum of the pay scale”* was imposed vide order (Annexure P-6). The petitioner submitted a representation to the Chief Secretary, Punjab which was partly accepted and the punishment was modified to that of *“stoppage of 3 increments with cumulative effect”* vide impugned order (Annexure P-7). The petitioner also preferred appeal before Hon'ble Education Minister, which was rejected as non-maintainable vide order dated 19.07.2012 (Annexure P-8). Hence, the instant writ petition.

It is contended that the Flying Squad headed by Shri Mohinder Pal, Deputy Registrar (Retd.), was not even authorized to conduct checking of 8th Class whereas, the said Mohinder Pal had been made incharge of 10th and 10+2 classes. There is neither any detail as to from which students the alleged 84 slips were recovered, nor any slip had been signed by the members of the Flying Squad. Moreover, no action was taken against the petitioner or the students on the spot and no unfair means case was prepared. The petitioner has been discriminated against as no action was taken against other invigilators on duty along with the petitioner. Further, only the punishment of Censure has been awarded to Shri P.C. Gupta, District Education Officer, Nawanshahr, against whom the charges were

also proved.

On the other hand, learned State counsel submits that the petitioner was caught helping the candidates in mass copying during the checking conducted by the Flying Squad. The matter was reported to the Director General of School Education vide letter dated 25.06.2009 (Annexure R2/1). Sh. Mohinder Pal, incharge of the Flying Squad was fully authorized to conduct the checking. Already a lenient view has been taken by the appellate authority and the punishment has been inflicted after following due procedure. The misconduct of the petitioner was also captured in camera of mobile phone by one of the members of the Flying Squad.

Heard.

It is not in dispute that on the fateful day, i.e. 04.03.2009, the petitioner was deputed as Superintendent of Examination Centre to conduct the examination in a smooth, free and fair manner. It is also admitted fact that a surprise check was conducted by the Flying Squad in the centre of the petitioner. From the enquiry conducted by the State, it has been proved with the help of mobile phone video recording and other incriminating material that the petitioner was caught facilitating the mass copying at the Centre. The petitioner also participated in the enquiry proceedings. It is true that the members of the Flying Squad ought to have conducted themselves in a prompt and professional manner by immediately informing the matter to the superior authorities as also to the police so that a case of unfair means could be registered against the petitioner and the other persons

involved therein. Be that as it may, there is sufficient material on record to prove the guilt of the petitioner. Moreover, the petitioner cannot be allowed to take benefit of any inaction of the authorities. It is further noticed that already a lenient view has been taken by the appellate authority which in the further opinion of this Court, does not deserve to be further diluted.

In view of the above discussion, the instant petition is hereby dismissed.

18.01.2019

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No