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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-58-2009 (O&M)
Date of Decision : 03.05.2019

Tarsem Singh

...Petitioner

vs.

Shiromani Gurudwara Prabhandak Committee and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sukhdip Singh Brar, Advocate
for the petitioner.

Mr. P.S.Thiara, Advocate
for the respondents.

Arun Monga, J. (Oral)

1. Petitioner herein, *inter alia*, seeks quashing of the order dated 05.12.2008 (Annexure P-3), passed by respondent No. 1, whereby services of the petitioner were dispensed with.

2. The delinquency attributed to the petitioner, as reflected from the impugned order Annexure P-3 is that, while working as Store Incharge at Gurudwara Shri Amb Sahib, Mohali, goods i.e. 270 Kg of Refined Oil, in excess of quantity recorded in the register, were found in the store on surprise checking done by Flying Squad of the Gurudwara. In light of the report filed by the Flying Squad, appropriate departmental proceedings were initiated against him wherein, he was indicted. Resultantly, the petitioner was dismissed from service.

3. Learned counsel for the petitioner submits that the defence put forth by the petitioner has been given a complete short shrift while conducting the inquiry proceedings. He submits that the petitioner was working merely as a

Helper and was not responsible for issuance of the receipts qua the donation of cash or goods as given by the followers/*Sangat* who visited the Gurudwara. He further submits that it is the duty of either the Manager or Gurudwara Inspector, who receives such donations and the job of the petitioner/Helper is merely to keep the same in safe custody.

4. Learned counsel for the petitioner has drawn my attention to the reply (Annexure R-1), which was submitted by the petitioner, to the charge sheet issued to him wherein the following specific stand has been taken:-

“These activities of ration, which was found in excess, was gifted/donated by Sangat and those followers whose addresses are with me, the receipts of their articles have been cut and in respect of others whose addresses are not with me, the preparation of the receipt of their articles are balance and yet to prepared for which Gurudwara Inspector had been informed. It is the product of the mind of S/Sh. Satnam Singh and Balkar Singh, Members of Flying Squad that purchase were to be made on 30.10.06/31.10.06. May I ask as to whether the Store Keeper can make purchases all alone or Manager of Gurudwara Sahib & Gurudwara Inspector were not to be associated. The articles/ration which were donated/received are of different companies. But when Gurudwara make purchases then the articles/ration are of one and same company and not from different companies. The duty of the Gurudwara Inspector was from 26.10.06 to 8.11.06.”

5. In view of the aforesaid stand taken by the petitioner, I am of the opinion that the respondent, while conducting the departmental inquiry proceedings against the petitioner, ought to have examined its own employees

who were incharge of the donations, *vis*, Manager and the Gurudwara Inspector, to whom the petitioner reported the donations which resulted in excess storage as per the delinquency attributed to him. In fact, the petitioner has stated that he had observed the excess goods in storage and at the first given opportunity he had informed of the same to Manager and Inspector. Yet, for the reasons best known to SGPC/inquiry officer, neither the Manager nor the Inspector were examined.

6. Having gone through the inquiry report (Anneuxre R-2), the same also seems to have been passed in a most summary manner, neither the defence of the petitioner is considered nor even otherwise it seems to be based on any evidence or cogent reasoning. The only reason assigned is that the Inquiry Sub Committee in a meeting held on 13.10.2008 scrutinized the case of the petitioner and that of Manager of the Gurudwara. And after the scrutiny, it arrived at a decision that the petitioner was guilty and therefore, it was recommended that his services be terminated.

7. The ostensible reasoning assigned by the Inquiry Committee is a complete moonshine. A perusal of the same shows that it is as cryptic and non-speaking as can be. Even otherwise, I am of the view that the punishment awarded to the petitioner is disproportionate to the attributed delinquency, assuming it to be gospel. Awarding of punishment of dismissal/termination from service is a kin to economic death penalty and has to be resorted to with extra caution. Not only the delinquent employees loses his dignity and livelihood but the entire family is reduced to live in penury and suffers the consequences forever. Punishment under passed herein, therefore, does not stand judicial scrutiny and is not tenable.

8. In the premise, impugned order dated 05.12.2008 (Annexure P-3) is set aside and respondents are directed to reinstate the petitioner without any back wages. However, the petitioner shall be entitled to continuity in service without any pecuniary benefits.

3rd May, 2019
shabha

(ARUN MONGA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>