

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: August 13, 2019
CWP-14819-2013

Avtar Singh

... Petitioner

vs.

Shiromani Gurdwara Parbandhak Committee & Anr .. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : None.

ARUN MONGA, J.

1. Petitioner seeks quashing of order dated 05.01.2013 (Annexure P-1) terminating his services and the rejection of his appeal as is indicated in the impugned order dated 10.05.2013 (Annexure P-2).

2. Admittedly, petitioner was appointed as Manager on 29.09.1992 and confirmed as such on 01.04.1996. Later, he was suspended and served with charge-sheet dated 15.11.2010 (Annexure P-7) for alleged financial improprieties and dereliction of duty. His reply dated 04.12.2010 (Annexure P-8) to the charge-sheet refuting the charges/allegations did not find favour and an inquiry was subsequently held. Resultantly, an order dated 05.01.2013 (Annexure P-1), impugned herein, was then passed terminating the petitioner's services. His appeal Annexure P-9 was dismissed as is indicated in the impugned order dated 10.05.2013 (Annexure P-2).

3. It is the petitioner's case that the actual order for rejection of his appeal has not been communicated to him. He asserts that the allegations against him were false; his reply to charge-sheet was not considered; he was

not allowed to cross examine the witnesses during the inquiry; the findings of the inquiry were pre-determined and wrong; the impugned orders for termination of his services and rejection of his appeal, as mentioned in the appellate order dated 10.05.2013 (Annexure P-2) are wrong and illegal.

4. Respondents filed response denying the aforesaid version set up by the petitioner. They pleaded that the petitioner's services had rightly been terminated and his appeal too was correctly rejected.

5. Having gone through and applied my mind to the pleadings of the parties and the accompanying documents, I am of the opinion that the impugned orders for termination of the petitioner's services and rejection of his appeal are not sustainable in law and deserve to be quashed.

6. As noted above, the petitioner had submitted reply dated 04.12.2010 (Annexure P-8) refuting the charges/allegations levelled against him in the charge sheet dated 15.11.2010 (Annexure P-7). His grievance is that without considering his reply, an inquiry was held.

8. In my opinion, it was incumbent upon the respondents to produce the record showing that the contentions raised by the petitioner's in his reply dated 04.12.2010 (Annexure P-8) to the charge sheet were objectively considered by the competent authority before passing an order for holding regular inquiry against the petitioner. No such record nor even the order for instituting a regular inquiry, has been produced by the respondents. It is, therefore, difficult to conclude that petitioner's contentions in the reply dated 04.12.2010 (Annexure P-8) to the charge sheet were considered by the competent authority so as to reject the petitioner's grievance that the same were not considered by the competent authority while passing an order for holding of a regular inquiry against

him.

9. The impugned order dated 05.01.2013 (Annexure P-1) for termination of petitioner's services simply says that the petitioner had been charge sheeted for various financial irregularities; on receipt of his reply, a Sub-Committee had been constituted for conducting inquiry. On the basis of inquiry report wherein charges were held as proved, the President, Shiromani Gurdwara Parbandhak Committee had terminated his services.

10. On the face of it, the impugned order dated 05.01.2013 (Annexure P-1) for termination the petitioner's services is non-speaking and has been passed in a most mechanical manner. The said order does not even mention what were the allegations against the petitioner and what were the findings thereon given by the Inquiry Sub Committee. Thus, it does not, at all, show due application of mind by the competent authority to the facts and circumstances of the case.

11. As stated above, the petitioner has alleged that the actual order for rejection his appeal has not been communicated to him. He has only learnt of rejection his appeal from the impugned order dated 10.05.2013 (Annexure P-2). To be noted here that the said order also contains directions for filing recovery suit against the petitioner for losses caused to the respondents.

12. To my mind, it was also incumbent upon the respondents to produce record showing that the contentions raised by the petitioner in his appeal dated 11.02.2013 (Annexure P-9) were objectively considered by the competent authority before rejecting the appeal. Neither any such record nor even the order for rejection of appeal has been produced by the respondents.

It is, therefore, difficult to hold that petitioner's contentions in the appeal

dated 11.02.2013 (Annexure P-9) against order for termination his services, were considered by the competent authority so as to reject the petitioner's grievance that his contentions in the appeal were not considered by the competent authority while rejecting the same.

13. As a result, the petition is allowed and the impugned order dated 05.01.2013 (Annexure P-1) for termination of the petitioner's services is set aside. Further, order of rejection of the petitioner's appeal against the same, as mentioned in the order dated 10.05.2013 (Annexure P-2) is also set aside with directions to the respondents to reinstate him into service and grant all consequential relief to the petitioner except back wages for the period he was out of service.

14. It is, however, made clear that the instant order will not affect the directions in the impugned order dated 10.05.2013 (Annexure P-2) for filing recovery suit against the petitioner for alleged losses caused to the respondents.

15. The petition is, thus, disposed of.

August 13, 2019
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No