

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

**CWP-15356-2015 (O&M)
Date of decision : 03.07.2019**

Dr. Bhupinder Pal Singh Gill

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D.S. Patwalia, Sr. Advocate,
with Mr. Kannan Malik, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

JITENDRA CHAUHAN, J.

By way of the instant writ petition, the petitioner has sought quashing of charge-sheet dated 08.07.2015 (Annexure P-5) as also the preliminary report dated 11.02.2015 (Annexure P-4 colly.), prepared by learned SDM, Jalalabad.

It is contended that the petitioner joined the respondent-Department as Medical Officer on 05.04.1983, through selection by the Punjab Public Service Commission. In the year 2008, the petitioner was given placement as Senior Medical Officer and subsequently confirmed as such. During the course of employment, he joined at CHC, Jalalabad (West) as Senior Medical Officer on 21.11.2013. On 02.01.2014, a raid was conducted on the orders of the Director, Health and Family Welfare Department, wherein, various irregularities were found against one

Pharmacist, namely, Gurpreet Singh Babbar, who was subsequently charge-sheeted for major penalty under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short, 'the Rules). Not only this, the petitioner also noticed that in another medical shop, namely, Jan Aushadi Centre, various other irregularities were going on. The petitioner being the SMO, held an inquiry and the inquiry report was sent to the Civil Surgeon, Fazilka, on which action was taken and one Ranjit Singh, Accountant was terminated from the services and said centre was closed down. It is further contended that holding a grudge against the petitioner, Ranjit Singh and Gurpreet Singh Babar, in connivance with each other, made a frivolous complaint against the petitioner to the Health Minister, Punjab vide letter dated 08.11.2014 (Annexure P-1). As a consequence thereof, an inquiry was marked by the Deputy Commissioner, Fazilka to SDM, Jalalabad (W) to look into the matter. The statement of the petitioner was also recorded. However, without considering the factual aspect of the matter as well as the record available, the learned SDM proceeded to hold the petitioner guilty vide his report dated 11.02.2015 (Annexure P-4). Vide letter dated 08.07.2015, the petitioner was issued the impugned charge-sheet (Annexure P-5), under Rule 8 of the Rules.

It is contended that the complaint moved by Ranjit Singh against the petitioner is a counter-blast to the report prepared by the petitioner on 12.08.2014 with regard to the irregularities committed by said Ranjit Singh. During the inquiry proceedings, the petitioner clarified on all the points raised in the complaint but the learned SDM did not consider the

same. With regard to the first point i.e. meetings of Rogi Kalyan Samiti (for short, 'the Samiti'), it was categorically pointed out that the Samiti established by the erstwhile SMO had become defunct as none of the members would turn up for meetings. In order to make the Samiti functional and productive, vide an office order dated 21.01.2014, the petitioner dissolved the earlier committee and sought to constitute a fresh committee. The new committee also gave ex post facto approval to the purchases made in the year 2013-14. As regards the second point regarding having residence in Room No.27 of Civil Hospital, the petitioner had duly submitted the rent receipt from his landlord in Jalalabad, but the same has been totally ignored by the SDM during inquiry proceedings. The other allegations with regard to purchase of certain items without adopting proper procedure are concerned, the same are also baseless.

On the other hand, learned State counsel submits that the petitioner with an ulterior motive, kept his residence in emergency duty room No.27 of the hospital while continued to claim house rent. The petitioner also purchased various items viz. Air Conditioner, Refrigerator, Almirah, Gyzer, Bed, water purifier (R.O.) and other items out of the government funds without adopting proper procedure and used the same for his personal use in an illegal manner. He has also misused the funds of the Samiti. It is further submitted that the petitioner is a chronic litigant and earlier also, he has been filing cases against the government.

Heard.

The charges against the petitioner as reflected in charge-sheet

Annexure P-5, read thus:-

“1. Having your residence at Room No.27 of C.H.C. Jalalabad and claiming House Rent wrongly.

2. Misusing of Funds of Rogi Kalyan Samiti.

3. Violation of Rules of the Government.”

As far as the allegation of using the medical officer duty room for residence is concerned, the petitioner submitted receipt during the inquiry proceedings dated 05.09.2014 (Annexure P-3), from his landlord to prove that at the relevant time, he had been residing at House No.218/1, Civil Hospital Road, Jalalabad (W), Fazilka. However, the same was discarded by the inquiry officer only on the premises that the petitioner had been drawing 15% of his basic pay as house rent, whereas, the rent being paid was just Rupees three thousand. Rather, he believed the version put forth by some employees of the hospital as well as the shopkeepers who were running their business in the vicinity to hold that the petitioner was having his residence at Room No.27. However, the names of such employees and shopkeepers have not come forth. Moreover, no effort was made by the inquiry officer to associate the person who issued the receipt (Annexure P-3). The petitioner has also apprised the inquiry officer with regard to the use of Medical Officer duty room as S.M.O. duty room and camp office. Thus, the finding recorded by the inquiry officer to the effect that the petitioner had been residing at Room No.27 of the Hospital is based on surmises and cannot be allowed to stand.

The allegation with regard to misuse of funds of the Samiti

have also not been proved by the inquiry officer. All the items/equipment purchased by the petitioner as reflected in the inquiry report are the items for use in the hospital. The inquiry officer has not cited any instance wherein any item was purchased at a rate higher than the prevailing rates and/or any other deficiency much less any misuse of the funds.

In view of the above discussion, this Court feels that the findings have been recorded in the preliminary report dated 11.02.2015 (Annexure P-4 colly.) without there being any cogent material on record to substantiate the same, the same is hereby quashed. Consequently, charge-sheet dated 08.07.2015 (Annexure P-5) is also set aside.

Petition allowed.

03.07.2019
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No