

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

**CWP-3107-2011 (O&M)
Date of decision : 29.04.2019**

Jaswinder Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The petitioner, *inter alia*, seeks quashing of the charge-sheet dated 11.02.2011 (Annexure P-6).

It is contended that the petitioner joined the services on 28.10.1992 with the respondent-Department of Youth Services as Steno-typist. She petitioner was directed to attend a trekking camp at Tara Devi (Shimla). She was the only female who was directed to join the camp with 150 male members of the age group of 15 to 35 years. Moreover, she being a steno-typist, had no work at the trekking camp. She was also honoured along with other officials/officers for good work and successful completion of the camp. However, on the last date of the camp, i.e. 12.01.2011, respondent No.2 came to the camp and upon her directions, order dated

12.01.2011 (Annexure P-3) was passed placing the petitioner under suspension on the false allegations of indiscipline created during the camp. The Headquarter of the petitioner was fixed at Chandigarh. The petitioner reported at headquarter on 17.01.2011. On 19.01.2011, she received a show-cause notice for explanation for her absence on 18.01.2011 and 19.01.2011. The petitioner submitted her reply dated 25.01.2011 that during the period of suspension, she need not be present daily at Headquarter in terms of the Rules. Thereafter, respondent No.2 issued impugned charge-sheet dated 11.02.2011 (Annexure P-6), with the charge that she had misbehaved with higher officer and had created indiscipline during the camp as intimated by Sh. Jagjit Singh, Assistant Director (Camp Commander) and during suspension period, she remained absent from office without approval/leave.

Hence, the instant petition.

Learned counsel contends that the charges framed against the petitioner are totally vague. Even, in the documents furnished with the charges, it is nowhere expressed as to how and with whom, the petitioner had misbehaved. Rather, no such act of indiscipline/misbehaviour happened during the camp. The camp was completed successfully which is evident from the fact that the petitioner along with others was felicitated upon its successful conclusion. The second charge with regard to absence from duty during the period of suspension is also not made out. In fact, the petitioner has been falsely implicated at the behest of respondent No.2 who was inimical towards the petitioner on account of the statement made by her

against the brother of respondent No.2.

On the other hand, learned State counsel has argued that major punishments were imposed on the petitioner on 29.08.1997 and 21.01.2000 in which one annual increment was stopped with cumulative effect. The present petition has been filed to halt the departmental proceedings pending against the petitioner. The Director has now retired from service and let the charges framed against the petitioner be enquired into.

Heard.

It has been averred on behalf of the petitioner that while being posted in the office of Assistant Director, Ludhiana, brother of the then Director-respondent No.2, always interfered in the affairs and management of the office. In this regard, Assistant Director, Jagjit Singh Chahal, had moved a complaint to the Government wherein, enquiry was ordered. The Enquiry Officer recorded the statements of Assistant Director, Ludhiana, the petitioner as well as one Peon, namely, Surinder Singh. The petitioner had supported the complaint made by the Assistant Director against the brother of respondent No.2. Therefore, respondent No.2 became inimical to the petitioner and started harassing her. Vide order dated 31.08.2009, she was transferred from Ludhiana to Patiala. The Assistant Director and Surinder Singh, Peon, were also transferred. Thereafter, the petitioner was issued a charge-sheet dated 16.12.2009 on the allegations of non-submission of joining report at the place of her posting due to transfer from Ludhiana to Patiala after relieving on 16.11.2009; absence from duty w.e.f. 20.11.2009; not getting medical examination conducted from Civil Surgeon, Ludhiana;

and not doing office work as per Rules. The petitioner submitted reply to the said charge-sheet, denying all the charges. The said charge-sheet culminated into dismissal of the petitioner from service. The petitioner had approached this Court by filing CWP-21196-2010, seeking quashing of the charge-sheet dated 16.12.2009 as also the action of the respondents in conducting the enquiry at Chandigarh. During the pendency of the writ petition, this Court, vide order dated 29.12.2010 had also directed respondent No.2 herein to remain present in the Court to address the issue. Ultimately, the writ petition was allowed on 31.10.2015 and the petitioner was reinstated in service. Therefore, the assertion of the petitioner with regard to false implication at the behest of respondent No.2 cannot be ruled out.

Even otherwise, two charges have been levelled in the impugned charge-sheet dated 11.02.2011 (Annexure P-6), which read thus:-

“Detail of Charges

- 1. Vide letter No.DYS(S6)2010/5803-09 dated 29.12.2010, the department deputed Smt. Jaswinder Kaur, Steno-Typist to perform her duty at Hiking Tracking Camp, Tara Devi (Shimla) from 04.01.2011 to 13.01.2011. Sh. Jagjit Singh Chahal, Assistant Director (Camp Commandant) vide his letter No.H-T-2001/Special-2 dated 12.01.2011 informed the Director, Youth Service, Punjab that Smt. Jaswinder Kaur misbehaved with higher officers and created indiscipline. In this regard, the Director, Youth Services, Punjab vide memo No.DYS/HT/Special-1 dated 12/1/2011*

immediately suspended her keeping in view her indiscipline and her headquarter was fixed at Chandigarh.

2. *The Assistant Director, Youth Services, Jalandhar vide his endorsement No.ADS/2010/7 dated 14/1/2011 relieved Smt. Jaswinder Kaur and she came present at the Headquarter on 17/1/2011 and 3/2/2011 and on remaining days she remained absent from office without approval/leave.”*

So far as charge No.1 is concerned, the same is totally vague in nature. There is nothing on record as to when, how and with whom the petitioner had misbehaved. Even letter dated 12.01.2011 allegedly issued by the Assistant Director, Camp Commandant, referred to in the charge-sheet, on the basis whereof, the petitioner was placed under suspension and issued the charge-sheet, has not been placed on record. Thus, the charge with regard to indiscipline is totally vague and cannot sustain.

As regards the second charge regarding absence from duty during the period of suspension is concerned, the same is also untenable. It is settled law that an employee under suspension cannot be forced to attend the office daily since the relationship of master and servant is temporarily suspended during this period. He can neither be asked to perform any duty, nor to attend the office daily. Thus, the second charge against the petitioner is also not proved.

In view of the above, the instant petition is allowed and impugned charge-sheet dated 11.02.2011 (Annexure P-6) is hereby quashed.

The respondents are directed to release all consequential benefits to the petitioner on account of setting aside of the impugned charge-sheet.

29.04.2019
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(JITENDRA CHAUHAN)
JUDGE

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