

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21359 of 2019(O&M)

Date of Decision: 13.09.2019

Dr. Kashmir Singh

... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Argued by : Mr. Navinder Jit Singh, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG Punjab.

ARUN MONGA, J.

1. *Inter alia*, issuance of a writ in the nature of *certiorari* has been sought herein seeking to quash impugned order dated 11.04.2012(Annexure P-12) vide which two annual increments with cumulative effect and non-practicing allowance of the petitioner, who is serving as Medical Officer, has been stopped. The punishment awarded vide the impugned order was later modified vide order dated 21.08.2012(Annexure P-26) to the extent that the non-practicing allowance of the petitioner(Doctor) was revoked with effect from 16.04.2012 and an appeal/ memorial dated 17.09.2013 filed by the petitioner before Hon'ble the Governor, Government of Punjab to the extent of his grievance has been rejected vide an order/ letter dated 12.07.2018(Annexure P-30), which too has been assailed herein.

2. The case in hand has cantankerous litigation background. Succinctly put, petitioner was earlier dismissed from service vide an order dated 21.04.2009. The said dismissal order was passed after holding an enquiry into the charges of his being doing medical practice while being in

Government service and cheating the Government, of which he was held

guilty in an enquiry report dated 12/14.05.2006. The dismissal order was passed after following the due procedure in law.

3. The petitioner challenged his dismissal before this Court vide CWP No. 6025 of 2010, wherein the punishment of dismissal awarded to the petitioner was set aside and the matter was directed to be considered afresh by taking appropriate decision in accordance with law. In the second round, lenient view was taken by the competent authority and it was decided to award the punishment of stoppage of two annual increments with cumulative effect and stoppage of non-practicing allowance. The said punishment was later modified vide order dated 21.08.2012, inasmuch as, the non-practicing allowance was restored to the petitioner with effect from the date of his rejoining the service. Still aggrieved, the petitioner filed a review application under Rule 21 of the Punjab Civil Services(Punishment and Appeal) Rules before Hon'ble the Governor which remained pending until the same was rejected vide order dated 12.07.2018(Annexure P-30). Hence, the writ petition.

4. Having heard the rival contentions and on perusal of the contents of the writ petition along with relevant record appended thereto, I am of the view that there is no scope of interference in exercise of extra ordinary jurisdiction vested under Article 226 of the Constitution of India.

5. After going through the enquiry report, I am of the opinion that the petition lacks merit and deserves to be dismissed. It has been conclusively proved by the Enquiry Officer that while being in Government service, petitioner had opened a private eye hospital by the name of Sohal Eye Hospital at Tarn Taran in the name of his father. Even though, record of the hospital is in the name of his father, but the medical prescriptions/ slips

issued to the patients are written by the petitioner. It is clearly, thus, borne out that petitioner was doing his private practice by sitting in Sohal Eye Hospital, against the applicable Service Rules. Petitioner used to charge the professional fee after checking the patients in the said private hospital, qua which, he had been drawing non-practicing allowance. The Enquiry Officer in no uncertain terms indicted the petitioner in the following terms:-

“Keeping in view the above statements of the witnesses, documents and all other circumstances, the charge of doing private practice being in government service and getting the NPA is established and in this way the C.O. has not behaved with the government properly. In this manner charge No.1 and charge No.2 are established against the CO.”

6. In the aforesaid premise petitioner was rightly awarded the punishment of stoppage of two increments with cumulative effect and withdrawing of non-practicing allowance. The same was further modified by taking a lenient view, inasmuch, as the non-practicing allowance has been restored to the petitioner. I do not see as to how punishment of stoppage of two annual increments with cumulative effect is disproportionate to the delinquency attributed to the petitioner.

7. Writ petition is accordingly dismissed.

(ARUN MONGA)
JUDGE

September 13, 2019

Jiten

- | | |
|--------------------------------|---------|
| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |