

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 109

Civil Writ Petition No.1946 of 2020
Date of Decision: January 24, 2020

Charanjit Singh

..... PETITIONER(S)

VERSUS

Union of India & others

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

...

PRESENT: - Mr. Balbir Singh Saini, Advocate, for the petitioner.

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Sant Parkash, J

This petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari, quashing orders dated 10.12.2018 passed by the Central Administrative Tribunal, Chandigarh Bench (for short, 'Tribunal'), whereby OA No.060/00189/2017 preferred by the petitioner stands dismissed; as also order dated 09.05.2019 passed by the Tribunal, whereby the review application filed by the petitioner against the aforesaid order has been dismissed.

The facts of the case are that petitioner is working on the post of Postman in General Post Office, Ambala Cantt. He is an active member of Trade Union recognized by the Postal Department. In the month

of January 2011, the Union raised certain demands relating to their working conditions, before respondent Nos.3 and 4. It is pleaded in the petition that because of petitioner's active participation in the agitation of Union, respondent No.4 suspended him from duties vide order dated 27.01.2011 which was lateron revoked vide order dated 07.02.2011 and he was transferred to Radaur Sub Post Office, under Rule 37 of the Postal Manual, Volume – IV. The petitioner got served two legal notices dated 20.02.2011 and 02.03.2011 upon respondent No.4.

The petitioner challenged his transfer order dated 07.02.2011 by filing OA No.213-HR of 2011 before the Tribunal and vide order dated 28.07.2011, the Tribunal held order dated 07.02.2011 to be not sustainable and quashed the same thereby directing the petitioner to join his place of posting at Ambala where he was working before the order of his transfer was passed.

Thereafter, petitioner was served with a memo dated 12.11.2011 for his having indulged in indiscipline and manhandling with Deputy Postmaster of Ambala GPO. An inquiry was conducted into the allegations. The Inquiry Officer concluded that the petitioner created indiscipline and spoiled the decorum of the office. As such, the complaint made by the Deputy Postmaster, Ambala GPO, of manhandling by the petitioner was proved, whereafter, respondent No.4 vide order dated 06.02.2012 ordered minor penalty of withholding of one increment for a period of three years without cumulative effect. The revision filed by the petitioner before the revisionary authority was also rejected. Order dated 06.02.2011 was challenged by the petitioner by filing an appeal before respondent No.3 – appellate authority, which was also dismissed vide order

dated 27.11.2012. The petitioner approached the Tribunal against orders dated 06.02.2012 and 27.11.2012 by filing OA No.416/HR/2013, wherein the respondents objected that petitioner approached the Tribunal without exhausting the remedy of revision. Accordingly, OA was dismissed by the Tribunal vide order dated 30.09.2015 giving liberty to the petitioner to file a revision.

After the dismissal of revision, the petitioner again preferred OA No.60/189 of 2017 before the Tribunal, which was contested by the respondents by filing written statement. Rejoinder was also filed by the petitioner. The Tribunal, vide impugned order dated 10.12.2018 held that there is no need to interfere with the findings of the disciplinary authority, appellate authority and revisionary authority, and consequently, dismissed the aforesaid OA. The petitioner yet again approached the Tribunal by filing review application bearing No.060/100001/2019 which was also dismissed vide order dated 09.05.2019.

Now, aforesaid both the orders passed by the Tribunal, dated 10.12.2018 and 09.05.2019 have been challenged by the petitioner through the instant petition.

Contention has been raised with regard to the fact that the whole inquiry proceedings are vitiated; no opportunity of being heard was ever afforded; and even the copies of the documents relied upon by the Inquiry Officer were not supplied to the petitioner. The impugned orders are based on conjectures and surmises.

We have heard learned counsel for the petitioner and perused the record.

Admittedly, the petitioner is working as Postman and is an active member of Trade Union. Earlier, he was suspended on 27.01.2011 which order was revoked by the competent authority vide order dated 07.02.2011 and he was transferred to Radaur Sub Post Office. He approached the Tribunal by filing OA No.213-HR of 2011 which was allowed vide order dated 28.07.2011 and order of transfer was set aside.

The petitioner was served with a charge memo dated 12.11.2011 and an inquiry was held. On 19.04.2011, Inquiry Officer reported that the petitioner was not cooperating with the inquiry proceedings despite repeated requests made on 08.04.2011, 11.04.2011 and 24.04.2011 to attend the inquiry. Accordingly, the inquiry officer concluded that the petitioner was not likely to participate in the inquiry and submitted his report on 23.08.2011, by holding that the delinquent created indiscipline and spoilt the decorum of the office and also manhandled the Deputy Postmaster, Ambala GPO. Consequently, vide order dated 06.02.2012, a punishment of one increment for a period of three years without cumulative effect was imposed upon him.

The petitioner failed before the appellate authority, revisionary authority and the Tribunal. The inquiry report proved that he misbehaved with his seniors. The plea of the petitioner that copies of the documents relied upon by the Inquiry Officer were not supplied, is totally misconceived. The alleged occurrence was witnessed by many persons present at the spot. As such, the demand of the documents was totally irrelevant and it shows that he was only adopting the dilatory tactics. With regard to the written complaint, if any, it can be conclusively said that the petitioner himself opted to remain away from the proceedings deliberately

and intentionally and let it go exparte. At this stage, it does not lie in the mouth of the petitioner that no copy of the documents was supplied or that he was not given an opportunity of being heard. The charges against the petitioner are of serious nature amounting to creating indiscipline in the office and manhandling a senior which was not tolerable at all.

From the perusal of the record, it was manifest that the petitioner was afforded full opportunity to submit his defence, if any, but that remedy was not availed at any stage. In the given circumstances, it cannot be presumed that no opportunity was afforded to the petitioner to participate in the inquiry. We, thus, find neither any illegality or deficiency in the manner in which the punishment order has been passed nor the punishment to be disproportionate. Rather, the stoppage of one increment for a period of three years without cumulative effect is too lenient in our view. To record our findings, we find support from judicial pronouncements by the Apex Court, viz. B.C. Chaturvedi vs. UOI and others, 1996 SCC (L&S) 80; R.S. Saini vs. State of Punjab and others, (1999) 8 SCC 90; and Damoh Panna Sagar Rural Regional Bank and another vs. Munnal Lal Jain, (2005) 10 SCC 84.

In view of what has been discussed above, we do not find any infirmity or illegality in the impugned orders passed by the Tribunal which are hereby affirmed. Consequently, the petition is hereby dismissed.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

January 24, 2020

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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No