

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

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Civil Writ Petition No.11567 of 1999
Date of Decision: January 13th, 2020

Ram Chand

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gurcharan Dass, Advocate
for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order dated 19.07.1999 (Annexure P-10), whereby the services of the petitioner were terminated on the ground that the charges stood proved against him and the explanation submitted by the petitioner has not been found to be satisfactory.

2. It is the contention of learned counsel for the petitioner that the report dated 17.07.1995 (Annexure P-9) of the Inquiry officer is based upon no evidence, rather the Inquiry Officer-cum-Senior Deputy Director, Dairy Development, Punjab, while concluding on the allegations against the petitioner, had found the petitioner to be involved in the case merely for the sake of it when it is alleged that there is involvement of the other Government officials of the department as also the bank officials. Conclusions have also been drawn that Gurmukh Singh and Santokh Singh appeared to be involved in the whole process. He asserts that the petitioner has been alleged to have affected cutting in the cheque and attested the same, which allegation has been found to be doubtful by the Inquiry Officer himself. It is further stated that in the inquiry report that the signatures of

the petitioner do not tally. Counsel thus, contends that when the basic allegations have been found to be not substantiated on facts, the consequential punishment order cannot sustain and deserves to be set aside.

3. Learned counsel for the respondent has submitted that the Inquiry Officer has proceeded to conclude in each of the allegations except allegations No.6 and 7 to be proved against the petitioner. In all other allegations, the conclusion of the Inquiry Officer is that the petitioner is guilty of the charges framed against him. He thus, contends that the inquiry report being in accordance with law, based upon facts, the consequential order of termination of the services of the petitioner cannot be faulted with. It is asserted that serious charges of embezzlement have been made against the petitioner, which have been duly proved in the inquiry proceedings and, therefore, the petitioner should not be reinstated in service.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. Petitioner, who was working on the post of Dairy Development Officer, Jalandhar, was chargesheeted on 18.04.1994 (Annexure R-1). Allegation against the petitioner was of embezzlement of various cheques by way of either cutting or attesting the cuttings and making payment. After the issuance of the chargesheet, on considering the reply of the petitioner, when not found to be satisfactory, Inquiry Officer was appointed. Departmental inquiry was held against him in which inquiry report was submitted on 17.07.1995 (Annexure P-9). On the basis of the inquiry report, show cause notice was issued to the petitioner, wherein

on he having been found to be guilty of the charges 1 to 5, charges 6 and 7 having not been proved against him. Reply to the show cause notice was submitted by the petitioner, which was found to be not satisfactory leading to the passing of the order dated 19.07.1999 (Annexure P-10), whereby the services of the petitioner were terminated.

6. Perusal of the inquiry report would show that in each of the allegations, which have been found to have been proved against the petitioner, the Inquiry Officer had doubted his own findings by asserting that the signatures and the handwriting appears to be not of the petitioner but strangely enough, he has proceeded to hold the petitioner guilty of the said charges. The Inquiry Officer has further proceeded to hold that some officers/officials of the department were involved and there is every possibility of the bank employee also being a party to the lapse. As is apparent from the report of the Inquiry Officer, especially with reference to allegation No.5, the bank authorities have not produced the records. The Inquiry Officer has, under this allegation, made an observation that some of the bank employees are involved in these irregularities, where the cheques have been passed and the amount released, especially in the light of the fact that the signatures of the petitioner did not tally. After having returned such observations in the inquiry report on the charges, which have been found to have been proved against the petitioner, the finding so returned cannot be sustained. Nothing has come on record which would indicate that the petitioner was the beneficiary of the said embezzlement, rather what has been concluded and found is the involvement of one Gurmukh Singh and Santok Singh, Dairy Federation Assistant. The inquiry report dated 17.07.1995 (Annexure P-9), on which the case hinges, has been

found to be not sustainable as the same is based upon no evidence as far as the petitioner is concerned. The said inquiry report, therefore, could not have been relied upon by the punishing authority to pass an order of termination of the petitioner, especially when the petitioner had agitated this aspect by way of his representation as submitted to the show cause notice, which had been served upon him.

7. In view of the above, order dated 19.07.1999 (Annexure P-10) is hereby quashed.

8. Petitioner is held entitled to the grant of consequential benefits in pursuance to the above.

9. The needful be done within a period of four months from the date of receipt of certified copy of this order.

10. The writ petition stands allowed.

January 13th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No