

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP No. 11227 of 2016
Date of Decision: February 3, 2020

Satish Kumar

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Goyal , Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. Advocate General, Haryana.

RITU BAHRI, J.(Oral)

The petitioner in the present petition is seeking quashing of the order dated 30.1.2015 (Annexure P-3) whereby the petitioner has been awarded punishment of stoppage of two increments with cumulative effect. The petitioner was working as a Clerk in the Haryana Industrial Training Department. He was deputed by ADC in the year 2005 to 2007 for conducting BPL Survey, wrong survey was done by the petitioner. A report was prepared by him after conducting survey and he made 17 ineligible families eligible and BPL card was issued to them by the petitioner and financial loss was caused by the petitioner to the Government and the petitioner was found guilty and punished under Haryana Civil Service Rules (Punishment and Appeal) 1987 under Rule 7. The petitioner was charge sheeted under these rules on 4.9.2013(Annexure P-1). After issuance of charge sheet, Sh.R.S.Yadav, Assistant Director (H.Q.) was appointed Enquiry Officer and he gave his report vide letter dated 31.7.2014

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(Annexure R-1). The petitioner was given a personal hearing on 27.11.2014 and submitted his reply which was not found satisfactory. The petitioner was awarded punishment of stoppage of two increments with cumulative effect. Thereafter the petitioner preferred an appeal before the Chief Secretary, Department of Industrial Training Haryana and requested that he is not at any fault as in similar circumstances two employees were also charge sheeted but they were exonerated and he has been awarded punishment. His promotion was also stopped and his juniors have been promoted two years prior and requested that he be also exonerated from the charges. Copy of the appeal is annexure as Annexure P-4. The appeal was dismissed on 22.5.2015 (Annexure P-5) by the appellate authority i.e. Respondent No.1.

He further submits that on similar issue enquiries were conducted and one of the employees namely Ram Phal working as Project Manager was issued the chargesheet but he has been exonerated vide order dated 9.7.2015 (Annexure P-7). He has referred to one Dr. Kuldeep Singh ADO who was also assigned the duty of survey of BPL families in the year 2005 to 2007 and the charges were that 60 ineligible families have been included in the list of BPL but he was advised “still there was need to be more cautious while performing such duties”. He was advised to be more careful while performing such duties.

On the question of punishment the enquiry report (Annexure R-1) has to be examined. A perusal of the enquiry report shows that he had conducted survey in the year 2005 to 2007 and after the survey department concerned prepared BPL Card on the basis of the report for those families. Survey was reconducted in compliance with the orders of

this Court and it was found that 17 families were not entitled for BPL card which were declared BPL and in this way 17 families got undue benefit. Satish Kumar, Clerk made financial loss to Government.

In this regard a witness on behalf of the Government Mr. Pardeep Dahiya, Principal Industrial Training Institute Sonipat has stated that vide Additional Deputy Commissioner letter No.DuDa/2013/252 to 268 dated 26.6.2013 received order for initiation of disciplinary action against Sh. Satish Kumar, Clerk for declaring deserving which do not deserve for BPL. In this regard case along with documents was sent to Directorate for disciplinary action in which a charge sheet was issued under rule 7. During this investigation an order was received from Directorate to collect the information about how much financial loss was occurred. As per Additional Deputy commissioner letter dated 14.3.2014 no information from departments is received regarding how much financial loss occurred. Thereafter Sandeep Malik, Assistant was asked that the documents which are received by him from Additional Deputy Commissioner, Sonapat on the basis of that he also submitted his statement for preparing wrong BPL card the he stated that he only received the list of ineligible candidates rather than the original form. He further submitted vide letter dated 10.6.2014 that they did not have any other documents than this list.

A perusal of enquiry report and as per the available evidence given by the employees the allegations against the employee that there was financial loss occurred due to BPL, it is observed that the allegations leveled against the employee does not prove, as the government witness and additional deputy commissioner office could not prove that how much financial loss was occurred due to the BPL, card made by Satish

Kumar, Clerk. The statement of the official has weight in which he stated that the financial condition may be changed in the survey conducted in 2011 which was poor during the survey of 2011 and in this regard the survey conducted by Satish Kumar was right.

Once in the enquiry report even though the petitioner has not been found guilty by the enquiry officer and the similarly situated employees were exonerated and he has been awarded punishment of stoppage of two increments with cumulative effect. Another fact which requires consideration is that after the survey report was checked and form related to BPL survey was submitted in the concerned department. After proper verification of submission of form concerned department made BPL card. Survey was carried with supervisor deputed by Additional Deputy Commissioner and the then Municipal Councilor of Ward No.12. The original form which had been submitted in the office of the Additional Deputy Commissioner is not on record. Moreover the government witness and additional deputy Commissioner office could not prove that how much financial loss was occurred due to the BPL card. The survey was conducted after a long gap and there is possibility of change in financial position of the families. The petitioner is to be treated at par with the other employees who have been exonerated.

The writ petition is allowed. The orders Annexure P-3 and P-5 are set aside. The respondents are directed to consider the case of the petitioner for promotion to the post of Assistant from the date persons junior to him had been promoted. The punishment given to other employees namely Ram Phal and Kuldeep Kumar is that they should be careful in future. This conduct of the petitioner is not so serious which would bar the

department to consider the petitioner for promotion. This exercise should be completed within a period of three months.

February 3, 2020
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(RITU BAHRI)
JUDGE

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