

CWP-17611-2020

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

CWP-17611-2020

Date of Decision:27.10.2020

Nihal Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. A.K. Virdi, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.

Case was taken up for hearing through video conferencing.

The present writ petition has been filed under Article 226 of the Constitution for issuance of a writ in the nature of certiorari quashing the order dated 10.01.2020 (Annexure P-1), whereby punishment of deduction of 1/3rd of pension with future effect was imposed on the petitioner, who retired on 30.04.2019 after attaining the age of superannuation; and the order dated 10.04.2020 (Annexure P-3) passed by the Appellate Authority whereby the *ibid* punishment was upheld and for quashing the enquiry report dated 01.07.2019 (Annexure P-10) submitted by the Inquiry Officer-cum-Superintending Engineer, OP, Circle, DHBVN, Fatehabad. A prayer has also been made for issuance of a writ in the nature of mandamus directing the respondents to release the withheld retiral benefits of the petitioner.

CWP-17611-2020

Learned counsel for the petitioner contends that the impugned penalty imposed upon the petitioner is a result of a vindictive action on the part of the respondent-authorities. It is further submitted that the petitioner has been approaching the courts for redressal of his grievances against the totally illegal and arbitrary orders passed by the departmental authorities. The said right of the petitioner cannot be taken away by the respondents by initiating one or other proceedings against him. It is, thus, contended that all the authorities, including the inquiry officer, were biased against the petitioner and the findings recorded by them cannot be said to be fair and impartial.

I have heard the learned counsel for the petitioner and gone through the record.

Admittedly, the departmental authorities have found the petitioner guilty of the misconduct and accordingly, the impugned penalty was imposed upon him. The charges levelled against the petitioner were duly proved, when all the witnesses stated on one and the same line that the petitioner had demanded and been paid the illegal gratification by the complainant. Once the charges stood proved in the departmental proceedings, there remained no ground left for the petitioner to allege illegality and arbitrariness in the orders passed by the respondents.

While the passing the impugned order dated 10.01.2020 (Annexure P-1), the Punishing Authority recorded the following finding:

“..... A public servant holds certain responsibilities towards the Govt. as well as the public which comes within his post. He is supposed to maintain absolute integrity, efficiency and good

CWP-17611-2020

behavior towards the public while discharging his official duties. Involvement of the public servant in corrupt activities makes him liable to face the charges of lack of integrity. In the present case in hand, the charged officer has failed to perform his duties and has been found guilty of the charge of demanding a bribe of Rs.60,000/- for settlement of excess load found at the premises of the complainant and thereafter accepting the illegal gratification of Rs.50,500/- from the consumer/complainant through the policemen who were part of his checking team. By committing these acts, the charged officer has not only caused immense harassment to the complainant but has also tarnished the image of the Nigam in the eyes of the public.”

The Appellate Authority while dismissing the appeal filed by the petitioner recorded the following finding:

“The said appeal has been considered by the Board of Directors of DHBVN in its meeting held on 17.03.2020 vide agenda item No.184.36. The Board took note that there was sufficient evidence on record in the form of statements of main witnesses who in their statements during examination before the Inquiry Officer have categorically proved their statements recorded before the DSP/Vigilance on 16.10.2018 during the fact finding enquiry. The charges are further corroborated by documentary evidence of withdrawal of amount of Rs.30,000/- from ATM on 22.09.2018 and also borrowing of money by the complainant from his neighbours and relatives for payment of illegal gratification. Furthermore, the purchase of stamp papers by his son and furnishing affidavit through complainant in his favour under social pressure of Panchayat cited in this case clearly indicates the malafide intentions of official.”

The Hon'ble Supreme Court in General Manager Punjab & Sind Bank & Ors. Vs. Daya Singh, (2010)11 SCC 233, has held that unless it is found that some relevant evidence has not been considered or that certain inadmissible material has been taken into consideration, the finding recorded by the Inquiry Officer, cannot be said to be perverse.

CWP-17611-2020

Still later, in Panchmahal Vadodara Gramin Bank and Ors. Vs. D.M. Parmar, (2011)15 SCC 310, while relying upon the case of Daya Singh's (supra), the Hon'ble Apex Court has held as under:-

“These findings are all based on adequate material referred to in the inquiry report and these materials are mainly bank records. As has been held by this Court in the recent decision in General Manager Punjab & Sind Bank & Ors. Vs. Daya Singh, (2010)11 SCC 233, in which one of us (H.L. Gokhale, J.) was a party, as long as there are materials and evidence in support of the findings, the High Court cannot interfere with such findings in exercise of powers of judicial review under Article 226 of the Constitution of India. The learned single Judge of the High Court and the Division Bench of the High Court have, therefore, rightly not interfered with the findings. Once the findings of the Enquiry Officer, which have been quoted above, are not interfered with, we fail to see how the delinquent officer can avoid the punishment of dismissal from service. The findings include not only serious acts of negligence but also acts of dishonesty and lack of probity. The Court cannot probably take a view that punishment of dismissal was shockingly or strikingly disproportionate to the gravity of charges proved against D.M. Parmar.”

It may be reiterated that the the respondent-authorities have found the petitioner guilty of having accepted illegal gratification. The fact finding inquiry conducted by the inquiry officer could not be assailed by the learned counsel for the petitioner in any manner and so is the position with regard to the order passed by the Punishing Authority and the Appellate Authority. It is not a case where the impugned punishment was imposed upon the petitioner without affording him proper opportunity of hearing or defend himself in the departmental proceedings. The petitioner having had the ample opportunity to disprove the imputation of charges and having done as such, he cannot

CWP-17611-2020

turn around to plead a biased and vindictive approach on the part of the departmental authorities.

In view of the above, I do not find any merit in the present writ petition.

Dismissed.

27.10.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No