

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
206

CWP-25126-2014

Date of decision: 20.01.2020

KULDEEP SINGH

...PETITIONER

V/S

STATE OF PUNJAB & ANOTHER

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Kapil Kakkar, Advocate,
for the petitioner.

Ms. Anu Pal, DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 10.02.2009 (Annexure P-3) passed by the Principal Secretary, Department of Health and Family Welfare, Punjab imposing the penalty of stoppage of two annual increments of the petitioner without cumulative effect on the ground that he had performed the operation of tubectomy on the wife of the complainant, namely, Daljit Kaur and misbehaved with her.

On 11.03.2019, following order was passed:-

“ The allegation against the petitioner is of carrying out tubectomy operation on the wife of the complainant wherein the petitioner allegedly misbehaved with her, whereas, the stand of the petitioner is that he was neither in station on the relevant date nor performed the surgery in question.

The State is directed to produce the record of operation carried out on the wife of the complainant.

Post again on 23.08.2019.”

In pursuance to the said order, records have been produced by the counsel for the State. On perusal of the records and on instructions from Dr. Sohan Lal, S.M.O. and Dr. Ravneet Kaur, M.O. SDM, Sardulgarh, counsel for the State submits that the petitioner was not available at Sardulgarh where it is alleged that he had misbehaved with the complainant or his wife, rather he was present at Primary Health Centre, Jhunir. Reference has also been made by the counsel for the State to the letter dated 03.01.2020 on the basis of the record, which has been received from the Senior Medical Officer, Sardulgarh and Sub-Divisional Officer, Sardulgarh, wherein it has been stated that the petitioner had not performed any operation on 19.10.2007 at Sardulgarh.

In the light of the above factual position and on the basis of the records, the impugned order dated 10.02.2009 (Annexure P-3) passed by the Principal Secretary, Department of Health and Family Welfare, Punjab cannot sustain and is, hereby, set aside.

It goes without saying that in the light of the setting aside of the order dated 10.02.2009 (Annexure P-3), which is the basic order, the order passed in appeal dated 15.05.1990 (Annexure P-10) cannot sustain.

In view of the above, the present writ petition is allowed. Impugned orders dated 10.02.2009 (Annexure P-3) and 15.05.1990 (Annexure P-10) are, hereby, quashed. The consequential benefits including the arrears be released to the petitioner within a period of four months.

January 20, 2020

pj

(AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No