

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

**CWP No.4212-2016 (O&M)
Date of Decision:12.02.2020**

Ravinder Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Dinesh Kumar, Advocate for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Mr. S.S. Behl, Advocate for respondents No.2 to 4.

TEJINDER SINGH DHINDSA J.(Oral)

Petitioner who was serving on the post of Senior Assistant, Field Office, Ludhiana under the Punjab School Education Board has filed the instant writ petition assailing the order dated 19.11.2014 (Annexure P-19) passed by the Chairman, Punjab School Education Board and whereby the extreme penalty of dismissal from service has been imposed. Further challenge is to the order dated 10.11.2015 (Annexure P-24) dismissing the statutory appeal preferred by the petitioner and as such affirming the order of dismissal.

Having heard counsel for the parties at length and having perused the pleadings on record as also the original records of the case which were made available by learned counsel representing the Board, this Court is of the considered view that the validity of the impugned order of dismissal dated 19.11.2014 (Annexure P-19) need not be gone into at this stage. Such view is being taken as the uncontroverted facts make out a

case for remand for decision afresh at the hands of the Appellate Authority.

Admittedly, against the order of dismissal dated 19.11.2014, petitioner preferred a statutory appeal under Regulation 6 of the Punjab State School Education Board (Punishment & Appeal) Regulations 1978. Copy of the appeal has been appended and placed on record at Annexure P-20 alongwith the writ petition. Perusal of the same would show that a number of grounds and submissions had been raised therein. It would not be necessary to dilate on the same in the instant order.

What has transpired is that the Appellate Authority i.e. Education Board/Board of Directors, chose to take a decision for the matter to be examined at the hands of a committee. The Committee after hearing the petitioner submitted its recommendations/views and which have been accepted in the deliberations held by the Appellate Authority in its meeting held on 10.11.2015 and thereby resulting in the dismissal of the appeal vide Annexure P-24.

The order dated 10.11.2015 at Annexure P-24 passed by the Appellate Authority cannot sustain on account of the following reasons:-

(i) The original records of the case would reveal that the Chairperson of the respondent-Board namely Tejinder Kaur Dhaliwal who had passed the order of dismissal had herself participated in the deliberations in the meeting dated 10.11.2015 as a Member of the Board while accepting the recommendations/views of the Committee and thereby affirming the order of dismissal. Clearly the Appellate Authority/Board was examining the correctness and validity of an order passed by the punishing authority in pursuance to a statutory appeal having been filed by the delinquent/petitioner herein. Under such circumstances it was not open

for the punishing authority to have been party to the decision making process while upholding an order of penalty that she had herself authored. It is not a case of apprehended bias but a case of clear bias.

(ii) Mr. S.S. Behl, counsel for the respondent-Board on a specific query having been put has conceded that the report of the Committee that had been constituted had not been supplied to the petitioner prior to the same having fallen for consideration and having been accepted in the proceedings dated 10.11.2015 (Annexure P-24). Such action is in clear violation of principles of natural justice. It was imperative upon the respondent authorities to have furnished a copy of the report/recommendations of the disciplinary committee to the petitioner so as to enable him to file objections to the same. For reasons best known to the respondent authorities copy of the report of the Committee has been held back on the basis that “*secrecy is involved*”. Such stand is patently illegal.

(iii) Perusal of the impugned order dated 10.11.2015 (Annexure P-24) passed by the Appellate Authority, would further show that it merely accepts the recommendations/views of the Committee that had been constituted. The grounds and submissions raised by the petitioner in the statutory appeal have not even been adverted to much less dealt with. Against such backdrop the order passed by the Appellate Authority would have to be termed as lacking application of mind as also being non-speaking.

(iv) An opportunity of hearing was afforded by the Committee to the petitioner. Such opportunity ought to have been granted rather by the Appellate Authority prior to taking a final view in the matter.

Such procedure has also not been followed.

At this stage, Mr. S.S.Behl, would inform the Court that the petitioner having filed a review against the order passed by the Appellate Authority an opportunity of hearing was granted subsequent thereto. Even if that be the case, it does not cure the basic infirmity that had occurred at the stage of taking of the decision by the Appellate Authority vide order dated 10.11.2015. The opportunity of hearing that is stated to have been granted was only in the nature of a post decisional hearing and that too not in pursuance to any statutory remedy of review being available with the petitioner.

In view of the above, instant writ petition is partly allowed. The order dated 10.11.2015 (Annexure P-24) passed by the Appellate Authority is set aside.

Matter is remanded back to the Appellate Authority to pass an order afresh.

Such exercise of reconsideration be completed within a period of three months from the date of receipt of certified copy of this order.

While passing an order afresh, the appellate authority would be mindful of the observations made by this Court in the present case.

Petition is disposed of accordingly.

(TEJINDER SINGH DHINDSA)
JUDGE

February 12, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No