

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

205

Civil Writ Petition No.9124 of 2014
Date of Decision: January 22nd, 2020

Deependra Singh Garcha

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rahul Sharma, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. Deputy Advocate General,
Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 29.01.2014 (Annexure P-6) passed by the Additional Excise and Taxation Commissioner (Administration) exercising the powers of the Excise and Taxation Commissioner, Punjab, whereby on the basis of a pseudonymous complaint filed against the petitioner taking a plea that the petitioner was not dependent upon his brother namely Captain Rupinder Singh Garcha, who was martyred during the Kargil war and, therefore, his initial appointment on the post of Excise and Taxation Officer was bad in law and, therefore, unsustainable. On the basis of this complaint, petitioner has been called upon to respond and an inquiry is sought to be initiated against him.

2. Learned counsel for the petitioner contends that this very aspect had earlier been inquired into by the respondents on a similar complaint, which has been filed but in the light of the judgment passed by this Court in *CWP No.19503 of 2008* titled as *Capt. Janmej Singh Versus State of Punjab and others* decided on 06.10.2010 (Annexure P-3), where name of the

petitioner also figured at Sr. No.5 in para 11, where this Court has held that for appointment in such circumstances, dependence of a person on the deceased was irrelevant and had no role to play therein. Compassionate appointment, therefore, was said to be fully justified. Respondents, on the basis of the said judgment having been passed, had filed the complaint, which was initiated against the petitioner on the same grounds as in the present complaint. Counsel thus, contends that the initiation of the present inquiry on the basis of a complaint dated 29.12.2013 (Annexure P-5) is totally uncalled for. His further assertion is that during the course of hearing of the present writ petition, an order was passed by this Court on 31.07.2018 calling upon the report of the Chief Judicial Magistrate, Amritsar, when a submission was made by the counsel for the petitioner that no person by the name of Amarjit Singh son of Pritam Singh, Village Chheharta, District Amritsar, who is alleged to have filed the complaint dated 29.12.2013 (Annexure P-5), existed. In the report which has been submitted by the Chief Judicial Magistrate, Amritsar, it has been found that no person by the name of Amarjit Singh son of Pritam Singh, who had been impleaded as respondent No.4 in the present writ petition, resided at the given address. The name of said respondent No.4 was, therefore, ordered to be deleted on 11.01.2019 on the basis of the said report. Counsel for the petitioner has now asserted that this being a pseudonymous complaint, which has been filed against the petitioner, the same could not have been taken note of by the respondent-department in the light of the judgment passed by this Court in *Rajwant Kaur Versus State of Punjab and others*

2014 (1) S.C.T. 769. Reference has also been made to the Instructions dated 03.05.1967 (Annexure P-9) issued by the Government of Punjab, where also the instructions say so. He, thus, prays that the present writ petition be allowed and the impugned order dated 29.01.2014 (Annexure P-6) passed by the Additional Excise and Taxation Commissioner (Administration) be set aside.

3. On the other hand, learned counsel for the State although could not dispute the facts, as have been stated by the counsel for the petitioner, submits that the complaint which has been received by the Additional Excise and Taxation Commissioner (Administration)-respondent No.2 has been acted upon for verification of the correct facts. She, however, could not dispute the fact, in the light of the judgment passed by this Court in *CWP No.19503 of 2008 Capt. Janmej Singh's case (supra)*, that the basic reason why the complaint was filed would not have any legs to stand because the primary reason why the complaint was filed was alleging therein that the petitioner was not dependent upon the deceased brother. Assertion has also been made that it was only at the initial stage and it was not with an intent to harass the petitioner.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the pleadings and the judgments, on which reliance has been placed.

5. The facts as narrated above need not be restated here as there is no dispute thereon. In the considered view of this Court, the present writ petition deserves to be allowed firstly on the ground that a similar complaint dated 29.11.2011 (Annexure P-2), which had earlier

been filed against the petitioner, has already been filed by the competent authority vide order dated 14.02.2013 (Annexure P-4), which fact is not disputed by the respondents. Second reason why this writ petition deserves to be allowed is that this is a pseudonymous complaint, which has been filed against the petitioner as stands established from the report of the Chief Judicial Magistrate, Amritsar, which, therefore, could not have been acted upon by respondent No.2 in the light of the Punjab Government Instructions dated 03.05.1967 (Annexure P-9) as also the judgment of this Court in Rajwant Kaur's case (supra).

6. In view of the above, the present writ petition is allowed.

7. Impugned order dated 29.01.2014 (Annexure P-6) is hereby quashed.

January 22nd, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No