

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

2007/2

Civil Writ Petition No.7338 of 2011
Date of Decision: February 13th, 2020

Gurnam Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Y.P. Singla, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the inquiry report dated 26.12.2008 (Annexure P-4) on the ground that there is no evidence against the petitioner and still charge Nos.4 and 8 have been shown to have been partially proved against him.

2. It is contended that the petitioner, with regard to charge No.4, has been held liable for the reason that he has not sent the inspection report in time, although with regard to the charge of not completing the inspection of the society, the same has been found to be so done by the petitioner within time. The charges which have been alleged to have been proved against the petitioner and on the basis of which he has been held liable were not even put to him i.e. with regard to sending of the inspection report late. As regards charge No.8 which related to non-sending of the passed resolution to the office of the concerned Assistant Registrar, the Inquiry Officer has himself held that this charge has not been proved, especially in the light of the fact that there are no instructions which required the

Inspector to send the resolution of the Managing Committee or as Administrator to the office on different dates. Still the Inquiry Officer has proceeded to hold the petitioner partially liable for committing negligence in duty for non-compliance of the instructions. This allegation appears to be without justification as at the first part of the conclusion, it has been stated that there are no such instructions requiring an Inspector to send the resolution, whereas in the second portion of the said conclusion, he has been held negligent in his duty for not complying with the office instructions. On this basis, he contends that once the charges have not been proved against the petitioner, merely because the Inquiry Officer has concluded that there has been some negligence on his part which was not a part of the charge against the petitioner, the punishing authority has simply accepted the said charges to have been proved and imposed the punishment of cut in pension to the extent of 5% for ten years vide order dated 21.07.2009 (Annexure P-7), which in any case is harsh. The Appellate Authority has also, without applying its mind, proceeded to reject the appeal of the petitioner vide order dated 26.11.2009 (Annexure P-8). The consequential order dated 19.10.2009 (Annexure P-9) passed by the punishing authority treating the period of suspension from 09.05.2007 to 28.02.2009 is unsustainable. He, therefore, submits that the present writ petition deserves to be allowed by setting aside the impugned orders.

3. Counsel for the State, on the other hand, contends that the Inquiry Officer, after going through the evidence, has returned finding holding the petitioner to be guilty of charge No.4. It cannot be said that the

charges, which were leveled against the petitioner, were without any basis as petitioner has been held liable for sending of the inspection report of the society after completion thereof late and with regard to the non-sending of the resolutions to the office of the concerned Assistant Registrar within time. She contends that the negligence of the petitioner having been established as per the report of the Inquiry Officer, the punishing authority has agreed with the same and passed the punishment order dated 21.07.2009 (Annexure P-7). In the light of the punishment order which has been passed on 21.07.2009, she contends that the appeal has rightly been dismissed by the Appellate Authority vide order dated 26.11.2009 (Annexure P-8). As regards treating of the suspension period of the petitioner as *dies non*, is a consequence upon the petitioner having been found guilty of the charges proved against him and, therefore, is sustainable.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. A perusal of the inquiry report would leave no manner of doubt that the submissions as made by the counsel for the petitioner deserve acceptance as the Inquiry Officer has, with regard to charge No.4, concluded that the inspection of the society was done by the petitioner in time, however, there has been delay in sending the same to the Head Office. This finding is not borne out from the records as the audit was duly conducted by the petitioner and were received on 24.07.2007, which cannot be said unreasonable delay and in any case, there are no charges against the petitioner with regard to delay in submission of the inspection report.

The charge against the petitioner was for not completing the inspection of the societies, which was found to be not proved.

6. As regards charge No.8, the Inquiry Officer has himself stated that the said charge has not been proved against the petitioner as there were no instructions or rules, which mandated or required the sending of the resolutions of the society or as the Administrator to the office of the concerned Assistant Registrar. In the absence of such a requirement under the rules/instructions, even the finding of negligence on the part of the petitioner, is without any basis.

7. In the light of the above, the inquiry report itself cannot sustain. The punishing authority has accepted the inquiry report and has proceeded to impose a cut of 5% in pension for ten years vide order dated 21.07.2009 (Annexure 7), which is unsustainable in the light of the fact that the charges against the petitioner have not been proved and there is no dissenting note given by the punishing authority. Similarly, the Appellate Authority has also failed to look into this aspect and, therefore, the consequential order dated 26.11.2009 (Annexure P-8) passed in appeal deserves to be set aside. With the setting aside of the punishment orders passed against the petitioner, the consequential order dated 19.10.2009 (Annexure P-9) vide which the period of his suspension with effect from 09.05.2007 to 08.11.2007 was treated as *dies non* also cannot sustain.

8. In view of the above, the present writ petition is allowed. Impugned orders dated 21.07.2009 (Annexure P-7), 26.11.2009 (Annexure P-8) and 19.10.2009 (Annexure P-9) are hereby set aside.

The consequential benefits be released to the petitioner within a period of two months from today.

February 13th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No