

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.35840 of 2019 (O&M)

Date of Decision:24.02.2020

Shyam Sunder Goel

.....Petitioner

Versus

The Lokayukta Haryana, Room No. 232, 2nd Floor, New Civil Secretariat,
Sector-17, Chandigarh and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Karan Garg, Advocate
for the petitioner.

LISA GILL, J(Oral).

The petitioner is aggrieved of order dated 16.05.2018 (Annexure P-4), passed by the learned Lokayukta, Haryana, wherein the complaint submitted by the petitioner for taking action against the delinquent officials i.e., respondents no.4 and 5, has been closed.

The petitioner, retired as a Divisional Accountant, from the department of the Haryana State Agricultural Marketing Board, while serving as a Sub-Divisional Clerk in the office of the Executive Engineer, Jhajjar. Respondents no.4 and 5, working as Assistant and Clerk, respectively, in the same office, were found to have embezzled ₹23,305/- during the period from January 2005 to December 2008. The said amount was payable to the petitioner in respect of arrears of Dearness Allowance, Travelling Allowance etc. A complaint was filed by the petitioner, on which

departmental enquiry was conducted against respondents no.4 and 5. They were held guilty. Punishment of stoppage of one increment without cumulative effect was imposed and recovery of ₹14,714/- each was directed to be made from both the officials and ₹8591/- to be recovered additionally from respondent no.5. Copy of the said order is attached as Annexure P-1.

The petitioner filed a complaint before respondent no.1, seeking action to be taken against respondents no.4 and 5, including criminal prosecution. It was further averred that the entire amount of penalty etc., as imposed upon respondents no.4 and 5, had not been deposited.

Learned Lokayukta, Haryana, vide impugned order dated 16.05.2018 (Annexure P-4), has closed the complaint while observing that the entire amount in question stands paid to the petitioner. Departmental action, had already been taken and no further action was called for.

Aggrieved therefrom, present writ petition has been filed.

Learned counsel for the petitioner vehemently argues that the learned Lokayukta, Haryana, has not taken into account the enquiry report of its own Registrar. Respondents no.4 and 5, it is contended are liable to be criminally prosecuted for the offence that they have committed. The petitioner, it is vehemently argued has suffered financial loss at the hands of the respondents and has been subjected to unnecessary harassment on account of the illegal acts of the said respondents. It is further submitted that the total amount in question has not been recovered, therefore, order dated 16.05.2018 (Annexure P-4), is unjustified and liable to be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

It is a matter of record that departmental action was taken against respondents no.4 and 5 and order, Annexure P-1, was passed

imposing penalty of withholding of one increment without cumulative effect with recovery of the amount as mentioned above. It is further not in dispute that on a complaint submitted thereafter by the petitioner, the Chief Administration, HSAMB, Panchkula, ordered a fact finding inquiry and appointed Mr. R.P.Bhasin, a retired District & Sessions Judge, to conduct the same. The said inquiry officer submitted the fact finding report dated 01.08.2014 (Annexure P-2). After looking into the facts and circumstances of the case, the Enquiry Officer, opined that no further action was required to be taken on the complaint No. 185 of 2014, submitted by the petitioner.

Thereafter, the petitioner preferred a complaint before the learned Lokayukta. Argument raised by learned counsel for the petitioner that the learned Lokayukta, should not have ignored the report dated 26.11.2014, by its own Registrar, is devoid of any merit. It is pertinent to note, at this stage, that the learned Lokayukta, has considered the entire relevant material available on record as well as the report of its own Registrar. As per report dated 26.11.2014, by the Registrar, there is not even a mention of the report dated 01.08.2014, submitted by the learned District and Sessions Judge (Retired),. Mere recommendation of criminal prosecution by the Registrar, can obviously not be binding upon the Lokayukta. Similarly, a perusal of enquiry report dated 25.10.2010, reveals that it does not come to the aid of the petitioner, in any manner, to indicate that order dated 16.05.2018, passed by the learned Lokayukta, is unjustified.

Learned Lokayukta, has taken into account the fact that the punishment of stoppage of one increment without cumulative effect stands imposed upon respondents no.4 and 5. The entire amount in question has been recovered and the same has in-fact been disbursed to the complainant.

Learned counsel for the petitioner is unable to point out anything contrary

thereto. It is thus rightly observed that no further action was required to be taken in the matter, at its end. Insofar, as the grievance of the petitioner that he was subjected to harassment and that respondents no.4 and 5, were guilty of criminal misappropriation and the petitioner is entitled to damages, needless to say, the petitioner, is at liberty to avail the remedy/remedies as may be available to him in accordance with law.

Therefore, keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to interfere in the impugned order dated 16.05.2018, passed by the learned Lokayukta.

Present writ petition is accordingly dismissed with no order as to costs.

24.02.2020

s.khan

**[LISA GILL]
Judge**

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