

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

CWP No. 2386 of 2022 (O&M)

Date of decision: 09.02.2022

Azad Singh

...Petitioner

versus

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice Arun Monga

Present : Mr. Sunil K. Nehra, Advocate and
Mr. Arnav Udai Singh, Advocate, for the petitioner.

Ms. Kirti Singh, Deputy Advocate General, Haryana.

Arun Monga, J.

Grievance of the petitioner herein is qua impugned order dated 28.01.2021 endorsed on 09.02.2021 (Annexure P-5) vide which he has been awarded punishment of stoppage of one increment with cumulative effect as well as upholding of the same by the Appellate Authority vide order dated 26.08.2021 endorsed on 02.09.2021 (Annexure P-7).

2. Succinct facts first. Petitioner was initially appointed as a Steno Typist in the respondent department on 14.11.1990. He was thereafter promoted as Accountant-cum-Clerk in 1992 and as an Assistant in 2010. Petitioner was promoted as Deputy Superintendent in the year 2015. A departmental enquiry was conducted against the petitioner and on 03.05.2019, charge-sheet (Annexure P-1) was issued to petitioner wherein it was mentioned that petitioner had committed certain irregularities. In the enquiry he was held guilty. Impugned order dated 28.01.2021 (Annexure P-5) was passed vide which penalty of stoppage of one annual increment

with cumulative effect had been imposed on petitioner. The appeal filed against the order of stoppage of one annual increment with cumulative effect was dismissed by the Appellate Authority on 26.08.2021(Annexure P-7). Hence, the writ petition.

3. Learned counsel for the petitioner contends that objections which the petitioner had submitted against the enquiry report have not been considered by the competent authority while imposing the punishment. He further submits that as per settled law, first the objections submitted by the petitioner should have been dealt with and thereafter show-cause-notice should have been issued proposing punishment but the complete procedure has been disregarded by the competent authority. He further submits that even the appeal filed by the petitioner against the impugned order was rejected on 26.08.2021 by passing a non-speaking order.

4. Learned State counsel who appears on advance service of copy of the petition and strenuously opposes the petition.

5. I have heard learned counsel for the parties and have perused the case file.

6. Learned counsel for the petitioner *inter alia* strenuously argues that the Enquiry Officer has gone way beyond his brief inasmuch as unnecessarily commenting on the petitioner's conduct and performance. The tone and tenor of the enquiry reflects that the Enquiry Officer had already made up his mind and he proceeded to conduct the enquiry with a preconceived mindset to hold the petitioner delinquent.

7. The following charge-sheet was issued to the petitioner:-

1. *“Non-disposal of work at C. M. Window.*
2. *Being on leave without permission.*

3. *The letters which have to be disposed of by the employee himself are also marked to the employees junior to you.*
4. *Non-issuance of approvals under Post Matric Scholarship Scheme.*
5. *Giving wrong reply to every letter and threatening mental stress.*
6. *Due to non-distribution of benefits as per R.T.G.S. to the beneficiaries of Dr. Ambedkar Meritorious Scholarships, the working level of Saral Portal is deteriorating.*
7. *Not preparing any report on time.*
8. *To conduct correspondence with Directorate for administrative action against junior employees without informing the District Welfare Officer.*
9. *Threatening to file a court case against the District Welfare officer on the pretext of disturbing him mentally.*

8. On the basis of evidence led, the Enquiry Officer has recorded the findings. It would be apposite to reproduce the conclusions and findings rendered by learned Enquiry Officer herein below:-

“xxx From the evidence of the prosecution, it has been established that inspite of repeated communications from District Welfare Officer, Jind, addressed to the delinquent (vide letters dated 30.11.2018 (Ex. PW1/5), dated 31.10.2018 (Ex. PW1/6), dated 06.11.2018 (Ex. PW1/7) dated 20.12.2018 (Ex.. PW1/8) and dated 06.11.2018 (Ex.PW1/9) instead of improving his way of official working, the delinquent had failed to perform the lawful duties assigned to him by the superior authority by putting false excuses and shifting the blame on others without any legal justification and thus, had acted in a manner rendering him unfit to man the office of Deputy Superintendent. From the evidence of the prosecution, it has been established that the delinquent had also belittled his senior officers by exercising the powers which were never bestowed upon him (details of which have been mentioned specifically in letter No. 71 dated 11.01.2019 of the District Welfare Officer, Jind, addressed to the Deputy Commissioner, Jind). From the evidence of the prosecution, it had been established that the delinquent violating official decorum/ discipline besides ignoring the provisions of the conduct rules governing his service conditions, had directly addressed

communication Ex. PW1/10 to the Director, Welfare of Scheduled Castes & Backward Classes Department, Haryana, Chandigarh, by ignoring the District Welfare Officer, Jind, which act of the delinquent is misconduct of the highest order which cannot be brushed aside to maintain discipline in the organization. From the evidence of the prosecution, it had been established that the delinquent had remained absent from his official duties without getting the leave sanctioned from the competent authority which act of the delinquent viewed from any angle is an act of gross indiscipline. It cannot be ignored that the delinquent being a Deputy Superintendent in the O/o District Welfare Officer, Jind, fully knew that no employee could / can avail any type of leave (station leave/ casual leave/ earned leave) without getting the same sanctioned in advance from the competent authority. The contention of the delinquent in his reply to the charge sheet as well as at the time of oral arguments before me to the effect that due to illness and for repair of his residential house by putting leave application he had left the office premises on 27.11.2018, has to be rejected and I reject the same being meritless because the delinquent has not examined any medical officer to show that he was really sick. It cannot be lost sight that the delinquent was provided every opportunity to put his defence as per rules and the delinquent was also provided the opportunity to cross examine the prosecution witness and the delinquent after examining himself, by making a statement reduced in writing had closed his evidence. The contention of the delinquent to the effect that he was given extra work of other seats in addition to his own duties by the superior authority which showed bias attitude of the District Welfare Officer, Jind, has to be rejected and I reject the same being meritless because the concerned District Welfare Officer, Jind and Deputy Commissioner, Jind at the relevant time had/ have every jurisdiction/ competency to entrust official work of any type to any employee in addition to his own duties in public interest. The contention of the delinquent to the effect that Sh. Satish Kumar, data entry operator in the O/o District Welfare Officer, Jind, was indulging in illegal activities while preparing the record and was shielded / protected by the then District Welfare Officer, Jind, has to be rejected and I reject the same being meritless because nothing has come on record to show or suggest that Sh. Satish Kumar had indulged in any illegal activities or he was protected by the then District Welfare Officer, Jind. When the contents of document Ex. PW1/10, evidence of the delinquent appearing as RW1 and his documents (Ex.RW1/1 and Ex. RW1/2) are evaluated minutely along with other facts/ circumstances/ documents/ evidence on

the record of the case, there is no escape except to say that the delinquent had prepared false record to justify his non-performance and to avoid departmental action for his willful absence from duty without getting the leave sanctioned. The contention of the delinquent to the effect that he was not provided complete set of documents relied upon by the competent authority has to be rejected and I reject the same being meritless because from the facts/ circumstances on record, it is clear that the delinquent was provided all the documents by the competent authority on which the Presenting Officer relied upon during the conduct of the enquiry.

xxx

xxx

xxx”

9. Having perused the enquiry report as well as the order passed by the punishing authority, I find no ground to interfere in the matter. The enquiry report is based on cogent evidence threadbare gone into by the learned Enquiry Officer.

10. Basis thereof, the punishment order has rightly been passed as also upheld by the learned Appellate Authority.

11. The enquiry report was put to the petitioner qua which he filed his objections vide letter dated nil (Annexure P-2). Even the Punishing Authority considered the objections filed by the petitioner and after going through the enquiry report applied his independent mind on the same. The punishment order is quite self-explanatory as is borne out from the reasons given therein. The same is reproduced as below:-

“xxx

xxx

xxx

The allegations levelled by the department on the employee were got investigated from Sh. R. P. Bhasin, District and Sessions Judge (retired). According to the inquiry report received from the Inquiry Officer, the allegations made against the employee were found to be proven. By sending copy of inquiry report, one month notice was given to Sh. Azad Singh, Deputy Superintendent, vide this office letter No. 233 dated 07.01.2020 that if he want to say anything in this regard then he should submit his reply within one month. In compliance of notice issued to employee, he submitted his reply to the notice in office on 18.2.2020.

Before taking a decision on the charge sheet issued to Sh. Azad Singh, Deputy Superintendent, he was given an

opportunity of personal hearing by the then Director General on 18.08.2020. No new fact/ document has been presented by employee at the time of hearing and repeated the same thing which he had written in reply to the charge sheet. No such fact has been presented by him to prove his innocence.

On perusing the records available in the file related to this matter and the report of the Inquiry Officer, I agree with the conclusion given by the Inquiry Officer. The allegations levelled against the employee are proved. Therefore, I pass an order to punish Sh. Azad Singh, Deputy Superintendent, to stop his one year annual increment with cumulative effect.”

11. The arguments of learned counsel for the petitioner that the objections of the petitioner were not considered by the Punishing Authority is totally misconceived. Merely because the Punishing Authority has not dealt with each and every objection while applying his independent mind shall not in any manner be taken as presumption that objections were not gone through by the Punishing Authority. It is not necessary to deal with each and every objection as cogent reasons have been given in the punishment order and the said objections would naturally be deemed to have been found not acceptable to the Punishing Authority.

12. Also, to be borne in mind, that quasi-judicial orders are passed by the administrative authorities. They are not supposed to render judgments in the manner as is expected from the Judicial Officers. As long as administrative order reflects what transpired in the mind while exercising quasi-judicial authority, the same is deemed to have been passed after due application of mind. Suffice to say that the principles of natural justice are met with.

13. As an upshot of my above discussion, I find no ground to interfere in the present petition. The same is accordingly dismissed.

14. No order as to costs.

15. In the parting, I may hasten to add here having perused the enquiry report vis-à-vis the delinquency attributable to the petitioner, perhaps the petitioner deserved to be awarded higher punishment than he has been. However, since a lenient view has already been taken by the competent authority inasmuch as only one annual increment with cumulative effect has been imposed as punishment, this Court refrains from exercising its judicial discretion to interfere in the same and rather would let off the petitioner by simply dismissing the petition, that too without costs.

09.02.2022

VS

(Arun Monga)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No