

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(236)

CWP-9094-2019

Date of Decision : April 26, 2022

Suraj Singh Brar

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Baltej Singh Sidhu, Senior Advocate, with
Mr. Chandan Singh, Advocate and
Mr. Inderpal Singh, Advocate, for the petitioner.

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

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the challenge is to the order dated 22.04.2015 (Annexure P-1) and the consequential order of punishment dated 22.07.2016 (Annexure P-4) by which, recovery of Rs.3,23,982/- has been imposed upon the petitioner, which also include the interest on an amount of Rs.6,25,000/- which the petitioner had retained while discharging his duties.

As per the averments made in the petition, the petitioner joined as Social Education and Panchayat Officer on 05.10.1987 and he was promoted to the post of Block Development and Panchayat Officer in the year 1996. Petitioner served on the said post in Sri Muktsar Sahib from

16.08.2002 to 13.05.2003 and thereafter on attaining the age of

superannuation, retired on 30.06.2015. Petitioner was issued a charge sheet on 17.06.2004 alleging that while being posted as Block Development and Panchayat Officer in Sri Muktsar Sahib, the petitioner did not collect the pending rent of 17 shops of the Panchayat Samiti due to which, the Samiti suffered loss by way of interest on the amount, which was supposed to be recovered by the petitioner and further, the petitioner had retained an amount of Rs.6,25,000/- after drawing the same from the Bank account of the Panchayat Samiti and the petitioner is liable to pay the interest on both the amount i.e. the pending rent which was supposed to be collected by him and interest on Rs.6,25,000/- for the period the same was retained by him.

After enquiring into the charge sheet, two months prior to the date of petitioner's retirement, an order was passed on 22.04.2015 (Annexure P-1) by which the petitioner was found guilty of the allegations made in the said charge-sheet and a recovery of Rs.3,23,982/- was imposed upon him. The challenge in the present petition is to the said order.

After notice of motion, the respondents have filed the reply. In the reply, the respondents have mentioned that the pending rent of the shops in question, was not being recovered by the respective Block Development and Panchayat Officer starting from 1998 onwards and even when the petitioner remained posted in Sri Muktsar Sahib, though having authority to recover the same, he did not make any effort to recover the pending amount and therefore, the petitioner was liable to pay the interest on the amount of rent which the Panchayat Samiti would have earned had the petitioner recovered the pending rent from the respective shops. Apart from this, the respondents have stated that a sum of Rs.23,836/- is liable to be paid by the petitioner as the interest amount on Rs.6,25,000/- which the

petitioner withdrew from the bank and kept with himself while he was posted with the Panchayat Samiti and failed to give utilization certificate for the said amount.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

A bare perusal of the allegations, which have been alleged against the petitioner is that while the petitioner was posted as Block Development and Panchayat Officer at Sri Muktsar Sahib from 16.08.2002 to 13.05.2003, he did not get the pending rent deposited from the shops which were on rent belonging to the Panchayat Samiti.

Learned senior counsel's argument qua the said allegation is that as the tenure of the petitioner in Sri Muktsar Sahib is only of 09 months, he cannot be penalized for recovery of the pending rent starting from the year 1998 onwards till 2003. Learned senior counsel for the petitioner submits that the penalty with respect to the default in recovery of the rent has to be put upon the respective Block Development and Panchayat Officer who remained posted there and the petitioner can only be made liable for non recovery of the rent of the shop concerned for the period for which he remained posted at Panchayat Samiti, Muktsar Sahib. Learned senior counsel further submits that the petitioner had got recovered a sum of more than Rs. 2 lacs as rent from the shop owners during his tenure which shows his diligence contrary to the allegations alleged against him of negligence in recovering the pending rent of the shops belonging to the Panchayat Samiti, Muktsar Sahib and that too starting from the year 1998 to 2003.

Learned counsel for the respondents has not been able to rebut the said argument as to how, the petitioner can be made liable for the recovery of the pending rent starting from 1998 onwards till 2003 when the petitioner only remained at Sri Muktsar Sahib for a period of 09 months starting from August, 2002 till May, 2003. That being so, the petitioner cannot be made liable for default in recovery of Rs.33 lacs i.e. the pending rent starting from 1998 to 2003, on which, the interest has been calculated, the recovery of which has been sought from the petitioner in the impugned order. At the most, the petitioner can be made liable for the non recovery of the rent which he was supposed to recover for a period of 09 months from the shops in question.

Learned senior counsel for the petitioner submits that the petitioner had got recovered a sum of Rs. 2 lacs for the said period which fact has gone unrebutted.

In case, Rs. 2 lacs is the total rent for the 17 shops for a period of 09 months then no liability can be fastened upon the petitioner but in case, the rent of the shops concerned was more than Rs.2 lacs and the same was not recovered, only then the petitioner's liability can be fastened for the non recovery of the rent amount which remained to be collected during the tenure of the petitioner starting from August, 2002 till May, 2003 and consequent interest on the said amount, if any, which the Panchayat Samiti lost, due to the inaction on the part of the petitioner.

Keeping in view the above, the impugned order with regard to the imposition of recovery of Rs. 3,00,152/- is set aside and the respondents may consider the issue afresh and recalculate amount of rent of the shops in question which petitioner was supposed to collect during his tenure of 9

months at Sri Muktsar Sahib. The respondents will be free to impose interest in case, there was any shortage of the recovery of the rent of the shops in question for the said period. With regard to the recovery of Rs.23,830/-, no fault can be found in the recovery of the same as the petitioner had retained an amount of Rs.6,25,000/- with him for more than 09 months, which the petitioner was liable to deposit the same with the bank account of the respondents.

Keeping in view the above, the present petition is allowed to the extent of setting aside recovery of Rs.3,00,152/- with liberty to the respondents to calculate the actual rent for 9 months from the shops which the petitioner was supposed to recover during his tenure from August 2002 onwards till May, 2003 and in case, there is any shortfall in collection of the rent for the said period, the respondents will be at liberty to calculate the interest which they have lost for the said period only so as to recover the same from the petitioner. The petitioner is directed that in case, he has not deposited a sum of Rs.23,830/-, he will deposit the same within a period of four weeks from the passing of this order.

The present writ petition is allowed in above terms.

April 26, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No