

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2053-2018 (O&M)

Date of decision: September 07, 2022

Jai Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

CWP-22581-2019 (O&M)

Jai Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

CWP-25961-2017 (O&M)

Jai Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sanjeev Sharma, Senior Advocate with
Mr. Vikram Singh, Advocate,
Mr. Surjeet Singh, Advocate,
Ms. Arundhati Kulshreshtha,
Mr. Sandeep Singh, Advocate,
For the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

1. Petitioner, a Housekeeper, at the relevant time serving at Haryana Raj Bhavan has been charged, *inter alia*, with the delinquency of not serving butter chicken to one set of the guests in a gathering, while providing the same to the other set, apart from using abusive language with his colleague serving at Raj Bhavan which led to the issuance of impugned charge-sheet dated 22.10.2010 (Annexure P-7) the genesis of lis herein.

2. Vide this common order, I intend to dispose of aforesaid three writ petitions as similar facts and issues are involved therein.

3. Seven years later of the aforesaid charge sheet, another charge-sheet dated 15.12.2017 (Annexure P-28) was issued charging him with misbehaviour, use of foul language against another official, namely, Sh. Raj Kumar Saini posted as Caretaker at Haryana Raj Bhavan. Inquiry Officer was appointed, who rendered his findings against the petitioner leading to issuance of show-cause-notices dated 20.12.2017 (Annexures P-25 and P-26) proposing to award him major punishment under Sub-Rule (c) (1) of Rule-7 of Haryana Civil Services (Punishment & Appeal) Rules, 2016.

4. While issuing notice of motion vide order dated 01.02.2018, speaking for this Court, Rajiv Narain Raina, J. (as he then was in this Court) made following observations:

“Inter alia contends that contemplated action is excessive and disproportionate to the gravamen of charges especially when the same are viewed from the perspective of the comments of the Secretary to Governor dated 18.02.2016 which appear to tone down and moderate the charges leveled long ago.

Notice of motion returnable by 16.02.2018.

For the present, notice to respondents No.2 to 5 is kept in abeyance to await the stand of respondent No.1.

In consideration by the State Government due regard would be had to the note of the Secretary dated 18.02.2016 at p.73 of the paper book.

Meanwhile, final order be not passed on the show cause notice to explore the possibility of adjusting the petitioner on a sanctioned post in the Hospitality Department where he does not come in conflict with the Governor’s household.”

5. Apropos further action against the petitioner proposed to be taken pursuant to the show-cause-notice has been on the hold. While on the other hand, it appears that the work and conduct of the petitioner other than the

delinquency attributed to him as per impugned charge-sheet herein, record has been unblemished.

6. Taking a wholesome view, in the interest of justice and equity, the competent Officer, Secretary to the then Hon'ble Governor made the following recommendations dated 18.02.2016 (Annexure P-19) which are as under:

“Two cases of disciplinary action against Shri Jai Chand, House Keeper have come up before me after a long gap. The Charge-sheets were issued in these cases on 22.10.2010 and 10.12.2010 respectively. The Inquiry Reports were submitted by the Inquiry Officers on 21.02.2012 and 05.06.2012 respectively and the files were put up before me on 27.08.2015. Mainly the charges revolve around the conduct and behavior of the employee. But I have seen his work since July 2014. Initially, there were some minor complaints about his behavior for which he had been advised personally to mend his conduct and to improve the behavior. Now, for the last many months nothing serious against his behavior and conduct has been reported to me or nothing came to my knowledge. Therefore, I don't see any justification in imparting him any major punishment at this stage i.e. after a gap of about three and a half years. Therefore, please examine as to what legal course is available now to be adopted to dispose off these cases.”

7. It seems that the above recommendations did not go down well, though subsequently petitioner was simply transferred vide order dated 27.06.2011 (Annexure P-10) from Raj Bhawan to the Hospitality Department, and that is where the matter rests. Petitioner is currently serving without there being any further complaints qua his behavior or performance in work. Notwithstanding, it seems that in order to overcome the hurdle of his satisfactory work and there being no complaint pending against him since 2010, as a bolt from the blue, vide second charge-sheet dated 15.12.2017 (Annexure P-28), petitioner was charged with using derogatory

abusive/unparliamentarily language with Caretaker, as already noted hereinabove.

8. Preliminary inquiry was conducted. Petitioner was held delinquent qua the charges and the further departmental proceedings continue to be on hold pursuant to the interim orders of this Court. Pertinent to note here, it is the petitioner's case that the alleged delinquency attributed to him actually owes its real genesis to a complaint made by him regarding installation of illegal mobile towers and some demand of unauthorized electricity usage, as more particularly pleaded in para 22 of the writ petition.

9. In the corresponding para of the return, following stand has been taken:

“22. That the contents of para No.22 of the writ petition are wrong, baseless and devoid of any merit hence denied keeping in view the fact that the said matter is not connected with the present case. However, it is submitted that when the said mobile companies boosters, which were not commercial antennas, were installed in Haryana Raj Bhavan in the year 2007 to facilitate the then Hon'ble Governor and other VVIP Guests visiting Haryana Raj Bhavan and the petitioner was very much posted as House Keeper in House side in Haryana Raj Bhavan and he was the key person to convey the verbal message of the then Hon'ble Governor for the same and installation thereof was also supervised by the petitioner, as ordered by the then Hon'ble Governor as the same was installed on the roof top of the residential area of the Hon'ble Governor. It is also pertinent to mention here that after switching off the mobile boosters, the Hon'ble Governor observed that the VVIP Guests visiting Haryana Raj Bhavan are complaining about poor connectivity of mobile signals, even the Hon'ble Governor himself complained verbally several times about the same. Accordingly, the matter was reconsidered and the issue was resolved by shifting the mobile booster from the roof top of residence of the Hon'ble Governor to New Guest House at Haryana Raj Bhavan amicably.”

10. Perusal of the aforesaid clearly reflects that there is much more than meets the eye. However, this Court would refrain to make any

observations qua the same, since the departmental proceedings have been put on hold and vide succeeding part of this order, I propose to direct the respondents to proceed further, though of course, with certain riders. More of it later.

11. As regards the preliminary inquiry conducted by the Inquiry Officer, the findings rendered by him make rather interesting reading and some of the relevant is reproduced hereinbelow:

“As two menu were set up, one for the VIPs i.e. at VIP dining halls and second for the staff i.e. at new VIP annexe dining hall. When ADCs (M) and ADC(P) of H.E. Governor, Haryana, S.P.Security, CM, Haryana, ADC to HE., The Governor, and two pilots were sitting where lunch for staff were arranged. At the very instant, the arrangement which was made for staff was removed from the table and immediately table was set up for the above said persons and proper food as per menu provided by Store Keeper were arranged.

It is also clarified that two menus were prepared and approved by other staff which does not relate to him. He also pointed out that he was not aware whether ADCs of H.E., the Governor Haryana were entitled to have food with the H.E., the Governor Uttarakhand and ADCS and whether they were invitees or not.

It is a fact that two butter chickens were provided by Store Keeper, Mr.Guna Nand to be served for VIPs’ lunch. The meal/lunch was set up on VIPs dining table as per menu. The proper food (hot and clean) was served to all the dignitaries as provided by the Store-keeper.

Keeping in view the shortage of food, it is a fact that he was asked by Sh. J.P.Dahiya ADC(P) that why chicken not served to them. He apprised the fact in the ear of Maj. Bhaskar Jha, ADC (M) who was sitting there that both butter chickens were served at the table of VIPs. Further he was told by Sh. Ashwani Kumar, Khalasi that he has been ordered by Sh. Om Parkash Pahadia to place the remaining butter chicken at his room at first floor and he will eat it later on. After hearing these facts, ADC (M) asked the ADC (P) to order him to bring chicken and then went to VIP annexe dining hall to check the status of remaining chicken and to serve it to ADCs, if available.

It is submitted that food served to the invitees was as per menu as provided by Store keeper. Moreover, he

only supervised at three places and serving staff is different and served as per menu and demand as per situation and tried to balance the situation at three places at one time. There was no negligence in serving of food.”

12. Reverting to the allegations qua the petitioner, it would not be out of place to note here that, concededly, he served as a Housekeeper. His services are meant for housekeeping only and qua the same, there is no quibble. There is nothing on record to show that housekeeper is also supposed to carry out the functions of a butler. To that extent, therefore, the allegation that he did not serve the same food to both sets of the guests leading to certain embarrassment, as well as, inhospitality on the part of the hosts who had invited the dignitaries at the function in question, cannot be entirely attributed to the petitioner alone, since he is merely a housekeeper.

13. The contents of the menu and service of food in terms thereof is a contributory process, wherein more than two sets of people are involved and, to hold the petitioner solely responsible for any faux pas in its entirety, by concluding that he did not serve same part of the menu to the one set of the people does not *prima facie*, seems impalatable. Even otherwise, the alleged delinquency of misbehavior with colleagues, the same has been commented in the order dated 01.02.2018 supra, while issuing notice of motion and, I am in respectful agreement with the preliminary observations made therein. Viz., due regard would be had to the note dated 18.02.2016 of the Secretary to Hon'ble Governor by the department.

14. The nature and gravity of the charges do not appear to be such that petitioner should be meted out with such harsh and disproportionate punishment, as is contemplated.

15. In totality of the circumstances, the writ petitions are disposed of with an expectation of the respondents that pursuant to the submission of petitioner's reply to the show-cause-notices, a wholesome view will be taken. Proposed orders which are required to be passed shall reflect and take into consideration the recommendations made by the Secretary to the Hon'ble Governor and the interim observations of this Court.

16. It will be appreciated if comments of the Head of the department i.e., Director Hospitality are also sought since it is stated that petitioner is currently serving at Haryana Niwas, Sector 3, Chandigarh of which the day-to-day operations and management are handled by the Director Hospitality.

17. With these observations, writ petitions are disposed of.

18. A photocopy of this order be placed on the connected case files.

(ARUN MONGA)
JUDGE

September 7, 2022

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No