

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222

CWP-23358-2017

DATE OF DECISION: 25.08.2022

BHAI DILBAG SINGH

... Petitioner (s)

Versus

S.G.P.C.

... Respondent(s)

CWP-24891-2017 (O&M)

BHAI HARMEET SINGH

... Petitioner (s)

Versus

S.G.P.C.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Ms. Vanita Sapra Kataria, Advocate for the petitioner.

Mr. P.S.Thiara, Advocate

Mr. APS Virk, Advocate

Mr. Gurvinder Singh Sidhu, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

This order shall dispose of two aforementioned writ petitions which involve similar questions of law and facts.

The petitioners have challenged the order dated 31.07.2017 (Annexure P-3) whereby their services had been terminated.

Learned counsel for the petitioners submits that the petitioners who were working as Sewadars in Shiromani Gurdwara Prabandhak Committee (for short – 'SGPC'). She further contends that the petitioners were regular employees and had rendered several years of service. They have been terminated without holding an enquiry or following the procedure as laid down in service Rules governing the SGPC employees. She also submits that the punishment of dismissal is grossly disproportionate to the alleged

misconduct inasmuch as the petitioners are stated to have been present in 'ahata' (Tavern) and it was not established that they had actually consumed alcohol. She also submits that no medical examination had been conducted.

Learned counsel for the respondents submit that there were serious allegations against the petitioners as consumption of alcohol is strictly prohibited amongst the SGPC employees. The petitioners were found to be sitting in 'ahata' (Tavern) where half filled glasses and a half filled bottle was found on the table. They also submit that this kind of misconduct cannot be tolerated, therefore, the petitioners were terminated from service. They have also relied upon the judgment of the Division Bench of this Court in the case of **Mahavir Singh Vs. Shiromani Gurdwara Parbandhak Comittee, LPA No.640 of 2014, decided on 13.08.2014** and judgment of the coordinate Bench of this Court in the case of **Lakhbir Singh Vs. SGPC, CWP-3067 of 1999**, decided on 13.09.2000 wherein termination of the employees without conduct of a detailed enquiry was upheld. They also state that the petitioner Harmeet Singh had himself admitted his guilt which is controverted by the learned counsel for the petitioners who submits that the petitioners had never accepted their guilt.

Heard.

The petitioners are admittedly regular employees of the SGPC. They have been dismissed from service. Rule 4 of the SGPC Regulations which is applicable to the petitioners prescribes the procedure to be adopted for dismissal of the employees. This Rule is reproduced hereunder:-

“Rule 4: DISMISSAL:

(a) The employee can be dismissed in accordance with the below mentioned rule by the appointing authority, but appeal against the dismissal by the President shall lie to the Executive committee within 30 days from the date of dismissal.

(b) Any employee under control of Management of any Department of Gurdwara under Shiromani Gurdwara Prabandhak Committee may prefer an appeal against any punishment of suspension, dismissal, fine, warning etc.

Within 30 days from the date of issuance of the order:-

1. Any employee of the Shiromani Committee can dismissed or degraded for his bad character, dishonesty, drinking or becoming a "Patit" but before he is dismissed or degraded, the allegations in the form of written charge sheet shall be supplied to him along with the statement of allegations, on the basis of which the charges are levelled against him. Representation against these charges shall be received from the employee within reasonable time and in case he denies these charges or prays for holding an enquiry or the Executive Committee deems it fit, these charges shall be got inquired into in the presence of the employee and for each item of the charge sheet, which has not been admitted, evidence shall be entitled to cross-examination these witnesses. In case an employee wishes to produce his defense, the same shall be entertained, but in case if the inquiring committee feels that certain evidence is not

necessary, it shall not be permitted to produced for the reasons to be recorded in writing. Action shall be taken against the employees only when the charge is established. In view of temporary or probationer employee the above mentioned procedure is not required to be followed. The committee can remove him at any time.

2. In case the employees wish to produce any record or document in their defence, he shall be permitted to do so and if he shall be permitted to inspect the record free of cost.
3. Every employee, who has been dismissed or degraded or removed shall be supplied with the copies of the report of inquiry committee and also final decision of the Executive Committee free of cost.
4. (a) The record pertaining to the dismissal or degradation an Employee shall not be destroyed for three years; rather it shall be kept in safe custody.

(b) If an employee is reinstated on exoneration after the suspension he shall be entitled to the arrears of salary of the suspension period.”

It is manifest from the bare reading of the Rule 4 that before the dismissal charges have to be framed and the employee has to be given adequate opportunity to respond. If he denies the charges , a regular enquiry has to be conducted. Reference can be made to the judgment of the coordinate

Bench of this Court in the case of **Sukhwinder Singh Vs. Shiromani**

Gurdwara Prabandhak Committee, CWP No.9989-2015, decided on 14.12.2018 wherein the termination of an employee of the SGPC without holding regular enquiry as prescribed in Rule 4 has been set aside. The relevant extract is reproduced hereunder:-

“19.) On a query posed by the Court that why was the harsh order of dismissal passed qua the petitioner. Especially, when the sub-committee conducting the inquiry had clearly recommended that petitioner be reinstated in service, though he may not be assigned the duties of a Granthi and be only reinstated as a Sewadar. Learned counsel for the respondent states that the recommendation of the sub-committee is not binding and, therefore, the Executive Committee ignored the said recommendation and dismissed the petitioner from service. The said argument of the learned counsel for the respondent is not tenable in view of the fact as already noted that Executive Committee passed the order without following the procedure as prescribed in Rule 4 of the Rules, *ibid*. Concededly the inquiry was conducted without recording any evidence or granting any opportunity to the petitioner to confront and cross-examine either the complainant or any of the witnesses.

20.) In the circumstances, the impugned order dated 13.03.2010 (Annexure P-7) is set aside and the petitioner is held entitled to re-instatement with continuity of service, but without any back wages.”

In the instant case, the petitioners who are regular employees having rendered several years of service have been dismissed without holding a regular enquiry. Their dismissal is, therefore, in violation of the service rules.

The judgment of the coordinate Bench of this Court in the case of

Lakhbir Singh Vs. SGPC (supra) relied upon by the counsel for the

respondents is distinguishable on facts and not applicable to the instant case as in that case the employee had been dismissed on account of misappropriation of funds and there was a tacit admission by the employee therein.

In the case of **Mahavir Singh Vs. SGPC (supra)**, the employee is stated to have consumed liquor while on duty, he had misbehaved with the devotees and a DDR had also been registered.

Consequently, the petitions are allowed. The impugned orders of termination dated 31.07.2017 (Annexure P-3) in both the aforementioned petitions are set aside. The petitioners would be reinstated in service and they would be entitled to the notional benefits with continuity in service. However, the respondents would be at liberty to conduct a regular enquiry, if so advised.

Civil miscellaneous application, if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

25.08.2022.

SwarnjitS

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