

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-1246-2023 (O&M)
Date of Decision: 11.04.2023

CHAMBER OF INDUSTRIAL AND
COMMERCIAL UNDERTAKINGS

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Saurav Verma, Addl. A.G., Punjab.

Mr. Alok Jagga, Mr. Harkirat S. Jagdev and
Mr. S.S. Bajaj, Advocates for respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking quashing of the order dated 30.12.2022 (Annexure P-15) passed by respondents No.1 and 2, whereby respondent No.4 has been promoted as Chief Environment Engineer, Punjab Pollution Control Board, Vatavaran Bhawan, Nabha Road, Patiala.

The petitioner claims to be an Association raising the grievance of Industrial and Commercial Undertakings of Punjab. It has been submitted that the Textile & Knitware Association had filed a complaint against the respondent No.4 alleging receipt of illegal gratification of Rs.15,00,000/- on 26.05.2011 for allowing E.I.P. to become operational. Respondent No.4 is further alleged to be demand Rs.3,00,000/- per month. A complaint was

thereafter moved before the Chief Minister, Punjab to get the Enquiry conducted from Vigilance Department comprised of Departmental Authorities.

A similar complaint was also made by the Dyeing Federation on 22.08.2021 to the Chief Minister, Punjab. A complaint was also filed to the Chairman of Punjab Pollution Control Board alleging payment of bribe. They were being pressurized to withdraw the complaint, thus, compelling the petitioners herein to approach High Court in Criminal Writ Petition No.1296 of 2021, which was, however, withdrawn having been rendered infructuous. The respondent No.4 also filed Writ Petition for security which was withdrawn on 05.12.2022. Within one month thereafter, the respondent No.4 was promoted.

It was allege that respondent No.4 was facing corruption charges and he was still promoted ignoring the said allegations.

On the other hand, learned counsel for respondent No.4 contends that the petitioner had earlier filed a petition bearing CRWP No.12196 of 2021 before this Court seeking protection to his life and liberty. The respondent No.4 had entered appearance in the aforesaid petition and made a statement that the allegation levelled by the petitioner qua demand of Rs.50,000/- by respondent No.4 including all other allegations may be got inquired into. On the basis of the aforesaid statement made by respondent No.4, an inquiry into the allegations was conducted by the Chairman, Punjab Pollution Control Board, Chandigarh. An inquiry report dated 13.05.2022 was submitted by the Inquiry Officer-cum-Chairman, Punjab Pollution Control Board, Chandigarh, as per which the allegations levelled by the petitioner were held to be not established. It was further recorded by the Inquiry Officer that the petitioner had no locus to institute the complaint and that the allegation qua demand of

Rs.50,000/- was vague, non-specific, general and unsubstantiated. The said inquiry report had been produced before the Court on 24.08.2022, whereupon the abovesaid CRWP-12196 of 2021 was withdrawn by the petitioner on 31.08.2022.

He contends that the petitioner is levelling false and frivolous allegations by lending his shoulder against the promotion of respondent No.4 and has no tangible or real grievance.

Learned State Counsel places reliance on the judgment of a Division Bench Judgment of this Court in passed in the matter of “S.S. Sharma Vs. Sate of Punjab” bearing No.CWP-1670-2017 decided on 08.03.2017, as per which, a third party petition in service matter is not maintainable and that only an aggrieved person can prefer a petition. The relevant extract of the aforesaid judgments read thus:

“8. Even otherwise, the petitioner seeks the invalidation of promotion and transfer orders of various Superintendents Grade-2, working in the Municipal Councils as Secretaries and their subsequent postings. The same is in the nature of a service matter. In respect of service matters, a PIL by a person not concerned with the service is not maintainable.

9. The Supreme Court in **R.K. Jain v. Union of India**, AIR 1993 SC 1769 held that the appointment of a Member of the Customs, Excise and Gold Control Appellate Tribunal is not to be gone into in a Public Interest Litigation and only in a proceedings initiated by an aggrieved person, it may be open to be considered. The writ petition was also not a writ of quo-warranto. It was held that in service jurisprudence it is a settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. A third party has no locus standi to canvass the legality or correctness of the action. Only public law declarations

would be made at the behest of a petitioner, a public spirited person.

10. In **P. Seshadri v. S. Mangati Gopal Reddy & others, (2011) 5 SCC 484** a writ petition raising disputes regarding service matter was filed before the High Court in the guise of a PIL by a person not concerned with the service, at the behest of persons hiding behind the veil. It was held that the writ petition was not maintainable and should not have been entertained and should have been dismissed at the threshold.

11. The Supreme Court in **Partap Singh v. State of Haryana (2002) 7 SCC 484** in a Public Interest Litigation filed by a legislature questioning the validity, legality and propriety of selections made by the Haryana Public Service Commission and appointments made pursuant to the selection by the State Government to the posts of District Food and Supplies Controller held that the petitioner had no locus standi to maintain the petition as he himself was not a candidate for the said posts.”

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

Invariably, a perusal of the averments set out in the petition clearly shows that the petitioner is not personally aggrieved and has no personal grievance against promotion of respondent No.4. Besides, the factum of filing a petition earlier by the petitioner against respondent no.4 has not been controverted and the allegations were seemingly inquired into by the Chairman, Punjab Pollution Control Board, Chandigarh. There is nothing on record that a person cannot be promoted when allegations are made against him. In the absence of any established charges in the disciplinary proceedings, a person cannot be ousted of his right to be promoted. Further, the case of the

respondent No.4 is, however, on a better footing inasmuch as the charge(s) against him already stand(s) inquired into at the rank of Chairman, Punjab Pollution Control Board, Chandigarh. The enquiry report of Chairman is not under challenge.

Furthermore, it is not a writ in the nature of Quo Warranto. There is no allegation as regards the eligibility of respondent No.4 to be promoted to the post of Chief Environment Engineer. Besides, there is nothing on record on the basis whereof it may be suggested that respondent No.4 was neither eligible nor entitled to be promoted to the said post. No person from the Department has also raised any challenge to the promotion of respondent No.4. It is well settled position in law that a third party petition in service matters is not maintainable. The petitioner does not dispute that he has no personal interest, grudge or grievance against the promotion of respondent No.4. Hence, the present petition is not maintainable for the grievance raised herein.

Faced with the above, learned counsel for the petitioner submits that he does not wish to press the present petition at this stage.

Disposed of as not pressed at this stage.

11.04.2023

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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No