

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

CWP-6447-2023

Date of decision : 27.03.2023

Malkiat Singh

....Petitioner

Versus

**Shiromani Gurudwara Prabandhak Committee through its President
and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.K. Saini, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioner has laid challenge to the impugned order passed by the Tribunal dated 28th of September, 2022 whereby the petition filed at the behest of the petitioner against the order of termination stands rejected.

Petitioner was working as Peon with the respondent-Institution. W.r.t. to his misconduct he was served with chargesheet on 8th of January, 2013 and thereafter inquiry committee was constituted. The petitioner was given opportunity to appear before the inquiry committee on 19th of February, 2013 and in all the proceedings subsequent thereto. However, the petitioner refused to accept the letter. Faced with the situation the inquiry committee submitted its report and recommended for termination of the petitioner vide report dated 22nd of March, 2013. Petitioner approached

Tribunal. The Tribunal has recorded pure findings of fact which reads as under :-

We have heard the learned counsel for the parties and have gone through the record. From the record, we find that the petitioner has earlier challenged his termination order of the year 2013 before the Hon' ble High Court of Punjab and Haryana and the matter was disposed of by relegating the petitioner to file an appeal before the Educational Tribunal, Punjab and then the petitioner filed the petition before the Tribunal, which was decided by the Tribunal by setting aside the report dated 22.03.2013 prepared by the enquiry committee and the impugned order of dismissal dated 04.04.2013, but with the liberty to the respondents to proceed from the stage of calling upon the petitioner to lead evidence. It is also ordered that the subsistence allowance due to the petitioner be paid along with arrears, if any, within one month from receipt of a certified copy of the order. It is also ordered vide judgment dated 07.02.2018 that the parties maintain status quo as of date regarding the service of the petitioner. This order shows that the Tribunal has nowhere reinstated the petitioner, rather order was passed to maintain status quo which was on the date of the judgment regarding the service of the petitioner. The petitioner has placed on record copy of show cause notice dated 18.09.2018 which has been issued to him (Malkiat Singh) in which it is mentioned that as per liberty granted by the Tribunal to conduct inquiry in the case, vide order dated 07.02.2018 in petition no.52/2017 filed by the petitioner for reinstatement in service, Sub Committee for inquiry had been constituted by the office of Directorate of Education, Shiromani Gurudwara Prabandhak Committee to conduct inquiry in this case. In this document, it is also mentioned that the above constituted Sub Committee for inquiry to consider the case of the petitioner in the prescribed period, regarding the charges leveled against him, granted sufficient time to the petitioner to submit his

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version including document/witness/evidence. But despite granting opportunity, petitioner failed to submit any document/witness or evidence and also failed to controvert the charges leveled against the petitioner as mentioned in the charge sheet. mentioned that as per inquiry report, petitioner has been found guilty and In this letter, it is also further he was asked to show cause notice as the charges leveled against the petitioner in the charge sheet have been proved, so as to why order dated 04.04.2013, terminating the petitioner from service be not upheld and he was given 10 days for filing reply/objections to the report submitted by the Sub Committee. The report of the Sub Committee was also placed on record constituted for inquiry. We have gone through this report. This report is in detail. The Sub Committee has held in this inquiry that the documents regarding absence and the petitioner has not performed his duty honestly and dedicatedly etc. have been mentioned which have not been rebutted by the present petitioner. It is settled law that the Tribunal is not the Appellate Authority of the Inquiry officer. As per the documents on record, it is clear that rules of natural justice have been complied with and opportunity of being heard is given to the present petitioner, but the petitioner has not produced any evidence before the Inquiry Sub Committee to rebut the documents. After this, copy of the inquiry report has been supplied to the petitioner and he was given 10 days to submit/file his reply/version and inquiry report is Annexure P-21, which is again detail order. Discussing the inquiry report etc., it is mentioned that to submit the petitioner's version regarding the charges leveled in the charge sheet, documents sought by the petitioner were provided to him and thereafter proper opportunity was provided by the Inquiry Sub Committee to submit the petitioner's version, but no document/evidence or witness has been provided by him in his defence. The reply of the petitioner was considered, while passing the order and it has been mentioned that it was not satisfactory. The perusal of the

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documents shows that rules of natural justice have been complied with and opportunity of being heard has been granted to the petitioner. The report of Inquiry Sub Committee is based on documents and there is nothing on the record to disbelieve the documents nor the petitioner has led any evidence to controvert the documents. There is one charge against the present petitioner that he has intentionally used indecent language in the leave application dated 20.12.2012 and his explanation and clarification was called for, but no evidence has been produced to clarify the wording of the application. We have also gone through this document, i.e., leave application which was given by the present petitioner to the Lady Principal. In the application asking for 5 days casual leave, the reason was given by the petitioner that due to need of child, being night shift, he is unable to give time to his family and asked for 5 days leave. This reason is mentioned in the application. On the face of it, indecent language has been used, especially when the Principal is a lady. The petitioner wants to convey that he wanted to cohabit with his wife at night time only, as they require birth of a child. The perusal of the wording which is given in the application in Punjabi language, it shows the indecent behaviour of the present petitioner. The other charges regarding absence etc. are based on documents. The present petitioner has not appeared before the Inquiry Sub Committee to rebut/controvert the documents, which have been relied upon by the Inquiry Sub Committee. Even during the arguments, petitioner has not denied that this letter/leave application etc. has not been given by him. Even neither in the petition nor at the time of the arguments, it is the case of the petitioner that these documents relied upon by the Inquiry Sub Committee are forged or false documents. Nothing has been 'argued regarding revision of pay scale and regarding suspension allowance etc. at the time of arguments.

Keeping in view the above discussions, we find that domestic inquiry has been conducted as per rules complying with the rules of natural justice and inquiry is based on documentary

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evidence and is as per law. The termination order passed by the respondents is as per law. Finding no merits in the present petition, the same is dismissed. File be consigned to the record room.

It has been specifically recorded by the Tribunal that all the evidence against the petitioner is documentary and even during arguments the petitioner has not denied any of the documents which were put to him.

Counsel for the petitioner has tried to submit that he was never put any document during the course of hearing. However, that is not the case pleaded. There is no challenge to the findings recorded by the Tribunal to the said effect in writ petition.

In view of the aforesaid, this Court does not find any reason to interfere in the present writ petition as no legal infirmity has been shown in the procedure followed by the disciplinary authority or in the order passed by the Tribunal.

Resultantly, the present writ petition is dismissed.

March 27, 2023**Dpr****(PANKAJ JAIN)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No