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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32204-2014 (O&M)

Date of decision: October 03, 2023

Jagmohan Saggar

....Petitioner

versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sunil Chadha, Senior Advocate with
Mr. Devyani Sharma, Advocate for petitioner.

Mr. Dhruv Dayal, Additional AG Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') seeking quashing of FIR No.316 dated 28.12.2011 (Annexure P-1), under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station, Division No.5, Civil Lines, Ludhiana City, along with all subsequent proceedings in pursuance thereof, including challan dated 19.08.2012 (Annexure P-3).

2. Per prosecution version, a complaint dated 13.12.2022 was received from the Additional Deputy Commissioner Development, Ludhiana, to register an FIR against the petitioner regarding special increments taken by him on 01.04.1988. It was submitted that the then A.D.C. (D), Sh. A.R. Darshi, PCS, submitted a complaint on 09.01.2002 to the Joint Development Commissioner and Special Secretary, Punjab, Chandigarh, stating that he did not grant this special increment to the employee. The said employee obtained a special increment by committing forgery of his signatures. The Deputy Commissioner, Ludhiana, sent an inquiry report to the Joint Development Commissioner, Punjab. After reviewing the report at the head office, it was deemed insufficient. The head office forwarded the case to the Director, State Forensic Scientific Laboratory, Chandigarh, for an inquiry and to verify forged signatures. The Director, State Forensic Scientific

Laboratory, in a letter dated 27.06.2011, found the petitioner to be accused of obtaining a special increment by committing forgery of signatures. The Joint Development Commissioner and Special Secretary, Punjab, decided to register an FIR against the petitioner (Superintendent Retired) and it was so done.

3. Learned Senior Counsel for the petitioner submits that the petitioner worked as an Investigator in the office of respondent No. 2, the Additional Deputy Commissioner (Development), Ludhiana. He retired on 28.02.2011 as a Superintendent. Allegedly, the petitioner was granted a special increment on 01.04.1988 by Sh. A.R. Darshi, the then Additional Deputy Commissioner (Development). However, after a period of 14 years, in his complaint dated 09.01.2022, Sh. Darshi alleged that he never granted any such increment to the petitioner, and the petitioner obtained it by forging his signatures.

3.1. Learned Senior Counsel would contend that the prosecution submitted a challan dated 19.08.2012 in court merely based on the FSL report dated 27.06.2011, without substantial proof demonstrating the petitioner's involvement in the alleged crime.

3.2. He asserts that while the petitioner was posted as an Investigator, he was granted his first special increment on 20.06.1988 by Sh. A.R. Darshi, retroactively from 01.04.1988. Subsequently, another special increment was awarded by Sh. Raminder Singh, IAS, on 01.10.1995, and the last special increment was granted to the petitioner by Sh. A. VenuPrashad, IAS, on 01.07.1997. Other employees, namely, Sh. Ramesh Kapoor, APO (M), and Sh. Naresh Pandey, Daftari, were also granted special increments on 01.10.1995 and 01.03.1980, respectively.

3.3. In a letter dated 15.11.2001 (Annexure P-4), the Joint Development Commissioner (IRD)-cum-Special Secretary requested the Additional Deputy Commissioner (Development), Ludhiana, to provide information regarding the officers who granted the aforementioned increments to the petitioner and the other two employees. Upon receiving a letter dated 13.12.2001 (Annexure P-5), all the aforementioned increments, including those awarded to the petitioner, were withdrawn by

an order dated 15.02.2002 (Annexure P-5/A). Feeling aggrieved, the petitioner filed CWP-10316-2002, which was disposed of by an order dated 08.07.2004 (Annexure P-6), quashing the impugned letter/order therein and permitting the respondents to issue a show-cause notice to the petitioner and pass such orders as are deemed appropriate in the circumstances. The State of Punjab filed SLP No.24933 of 2004, which was dismissed by an order dated 13.12.2004.

3.4. The Learned Senior further contends that, in the meanwhile, the Government had already recovered monetary benefits that had been extended to the petitioner via a letter dated 27.04.2005, which included a cheque of Rs. 62,283. In another order dated 04.04.2005 (Annexure P-7), the orders from 20.06.1988, 31.10.1995, and 01.07.1997 were set aside. These orders had granted the petitioner special increments, effective from 01.04.1988, 01.10.1995, and 01.07.1997, and directed the withdrawal of the benefits of these special increments, along with consequential recovery. The order dated 04.04.2005 did not state that the benefit of the annual increment, granted on 20.06.1988 by Sh. A.R. Darshi, was being withdrawn because said officer never granted the special increment or that his signatures were forged. A recovery of Rs.62,283 was directed to be made from the petitioner, and the petitioner duly deposited this amount. The Learned Senior counsel contends that Sh. A.R. Darshi, in order to save himself, alleged in the complaint that he never granted any such increment to the petitioner and that his signatures were forged. It has never been the case of the Department that the signatures of A.R. Darshi were forged on the letter dated 20.06.1988, through which the first special increment was granted to the petitioner.

3.5. The Learned Senior counsel further urges that the FSL report itself does not conclude that the petitioner forged the signatures of Sh. A.R. Darshi, as the handwriting of the petitioner has never been compared with the handwriting in which the said signatures appear on the letter dated 20.06.1988. Even from the service book (Annexure P-8) of the petitioner, it is clear that on 20.06.1988, the signatures of Sh. A.R. Darshi appear under columns No.9 and 12, and in between, under column No.11, the words

"special increment" have been mentioned. Beneath the said signatures of Sh. A.R. Darshi, it has been inscribed, "Granted one special increment w.e.f. 1/4/88 as the performance has been excellent during my posting from 16.8.86 to 20.6.88 under Rule 4.10 of CSR Vol.I."

3.6. The Learned Senior counsel also contends that after a considerable delay of 23 years, the FIR in question has been lodged concerning the alleged incident/forgery, especially after the petitioner's retirement from service, effective from 28.02.2011, and the recovery of the amount of Rs. 62,283 having already been made from him. As per Rule 2.2 (b) of the Punjab Civil Services (Punishment and Appeal) Rules, after the retirement of an employee, no departmental action should be taken against him in respect of an incident that took place more than 4 years before such institution.

3.7. He contends that from the statement dated 20.02.2004 (Annexure P-9) of one Sh. Narinder Kumar, Investigator, and an affidavit dated 10.12.2003 (Annexure P-10) of one Gulbadan, it is manifested that it is Sh. A.R. Darshi only who had granted the special increment to the petitioner.

4. On the other hand, learned State counsel opposes the petition and submits that FIR in question has rightly been registered against the petitioner for committing forgery of signatures for getting one special increment.

5. I have heard learned counsel for the parties and gone through the case file.

6. Vide order dated 17.09.2014, while issuing notice of motion, further proceedings before trial Court were stayed. The said interim order continues to operate till date.

7. Vide the order dated 06.08.2018 passed by a co-ordinate Bench of this Court, which was then seized of the matter, an affidavit was directed to be filed. It was meant to explain who had signed the service book of the petitioner, the procedure followed while issuing the order for the grant of a special increment, who received the order dated 20.06.1988, how entries are made in the service book of the petitioner, and whether a similar complaint was also made regarding the grant of the other two special

increments to the petitioner. It is pertinent to mention that an affidavit dated 15.10.2018 has already been filed, which is on record.

8. From the stance taken in the aforementioned affidavit deposited by the Additional Deputy Commissioner (Development), Ludhiana, it is evident that the signatures of Sh. A.R. Darshi, the then Additional Deputy Commissioner, were available on record. However, for inexplicable reasons, the service book containing the said signatures was not sent for verification by the FSL. Furthermore, the department concedes that since Sh. A.R. Darshi has passed away, the authenticity of his signatures cannot be verified at this stage. The department further maintains that, based on the available record, the office of the Additional Deputy Commissioner is unable to verify the authenticity of Sh. A.R. Darshi's signatures in the service book. As for the FSL report, it is also noted that the standard signatures provided for verification did not match with the ones on the document for comparison, and despite specific requisition, additional admitted signatures of Sh. A.R. Darshi were not sent. Notably, the FSL report remains silent about the signatures in the service book. In the premise, the very basis of the allegation of forgery of signatures by petitioner does not survive for lack of supporting material.

9. Regarding the procedure required for the grant of special increments, which were later found to have been illegally accorded to the petitioner, the affidavit states that no office order was issued for granting the special increment to the petitioner because there is no dispatch number, date, or entry in the service book related to it. Nonetheless, the benefit was granted to the petitioner. In my view, this error is a civil matter, and no criminal culpability is evident. The erroneous grant of the special increment to the petitioner has been rectified by withdrawing it and recovering the arrears that were unduly paid in excess of the entitlement. In the context of the previous granting of the benefit of special increment, it is worth noting that two other similarly placed officials, who were also erroneously given special increments, did not face any criminal complaints like the one against the petitioner, even though they met the same fate.

Subsequently, the benefits were withdrawn, and recoveries were made through the normal course of action, as opposed to the criminal action taken in the present case.

10. In the overall premise, the dispute being purely civil in nature, I see no grounds as to why FIR in question be not quashed.

11. For the reasons recorded above, the present petition is allowed. FIR No.316 dated 28.12.2011 (Annexure P-1), under Sections 420, 465, 467, 468, 471 and 120-B of IPC, registered at Police Station, Division No.5, Civil Lines, Ludhiana City, along with all subsequent proceedings in pursuance thereof, including challan dated 19.08.2012 (Annexure P-3),stand quashed.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 03, 2023
mahavir

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