

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18910 of 2021 (O&M)

Date of decision: 03.03.2023

Varinder Kumar

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Om Pal Sharma, Advocate
for the petitioner.

Mr. D.K.Singal, Addl.A.G., Punjab

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the orders dated 29.10.2020, 08.02.2021 and 13.10.2017.

The petitioner joined as Maths Master in the year 2006. There was an incident in which it was alleged that the petitioner slapped a female student studying in 8th standard on 23.08.2014. The parents of the female student registered an FIR, while making various other allegations.

2. Keeping in view the situation, the competent authority transferred the petitioner to a different school. The petitioner did not join at the transferred place, resulting in the order whereby he was suspended. The petitioner is stated to have remained absent from 05.09.2014 to 03.12.2014. In the criminal trial pursuant to the FIR, the petitioner was acquitted. However, two charge-sheets were issued to the petitioner, one for the afore-stated incident and the other for his unauthorized absence from duty.

3. With regard to the allegations concerning a small girl student, the Enquiry Officer found that the petitioner did slap the girl but the

remaining allegations have not been proved. In the departmental proceedings for remaining absent from duty, the charges against the petitioner were proved. Ultimately, the competent authority passed two different orders. In the first one, it was decided that though his suspension period shall be treated as duty period for all the service benefits, however, in accordance with Rule 7.3 (b) of the Punjab Civil Service Rules, Part-I, he will not get any financial benefits except suspension allowance payable during the suspension period. In the other order, the punishment of stoppage of one annual increment with future effect was ordered.

4. The learned counsel representing the petitioner submits that the substantial charges against the petitioner have not been proved and the petitioner was absconding on account of registration of the FIR.

5. On the other hand, the learned counsel representing the State of Punjab submits that though in the first charge-sheet, the allegations against the petitioner have not been proved, however, he did slap the girl student. He further submits that the petitioner was, in fact, required to apply for bail.

6. This court has considered the submission of the learned counsels representing the parties.

7. The petitioner has remained under suspension from 04.12.2014 to 19.07.2017 i.e. for more than 2 ½ years. Though, he has been reinstated but except for suspension allowance, no other financial benefit has been given to him. Moreover, the substantive charges against the petitioner have not been proved.

8. No doubt, the scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceeding, is limited. A court can interfere with the punishment only if the same is shockingly

disproportionate to the charges found true and it is only in such an eventuality that a court may interfere and remit the matter back to the disciplinary authority for re-consideration of punishment. Moreover, the Hon'ble Supreme Court, in numerous judgments, has held that to shorten the litigation, the Courts and the Tribunals are also empowered to impose an appropriate punishment by recording cogent reasons in support thereof. The petitioner has already faced prolonged litigation. He has already been deprived of his salary for a period of more than two years except for the suspension allowance. As per the findings of the disciplinary authority, he slapped a female student studying in 8th class. A teacher is required to inculcate the discipline in the students so as to mould them into good human beings, for which they resort to various measures, however, physical assault should be avoided.

9. Keeping in view the facts of the case, the writ petition is disposed of by modifying the punishment under the order dated 29.10.2020 to the effect that the stoppage of one annual increment shall be without future effect.

10. With these observations, the writ petition is disposed of.

11. All the pending miscellaneous applications, if any, are also disposed of.

March 03, 2023
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(ANIL KSHETARPAL)
JUDGE

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