

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18545 of 2020

Date of Decision: 01.02.2023

Sarabjit Kaur

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.K.Arora, Advocate
for the petitioner(s).

Mr. R.K.Kapoor, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. Though the learned counsel representing the State of Punjab has stated that the petitioner died on 01.12.2022, however, the learned counsel representing the petitioner submits that he is prepared to address the arguments in the main case.

2. In view of the amendment in Order XXII of the Code of Civil Procedure, 1908, as applicable to the States of Punjab, Haryana and Union Territory, Chandigarh, filing of an application to bring on record the legal representatives is not necessary particularly when the learned counsel is prepared to watch the interest of the petitioner and her legal representatives.

3. The petitioner assails the correctness of the charge sheet, inquiry report and the consequent order passed on 09.08.2019 whereby the punishment of 5% deduction in the pensionary amount has been imposed.

The petitioner, on attaining the age of superannuation, retired

on 30.06.2019. The details of the charges served on the petitioner, read as under:-

“There is a charge against Smt. Sarbjit Kaur, Dealing Assistant office of District Education Officer (EE), Jalandhar now Circle Auditor, Office of the Circle Education Officer, Jalandhar that she while working as Dealing Assistant on the seat of RTI in the office of the District Education Officer (EE), deposited only 33 drafts out of total 87 drafts received in the office of the District Education Officer (EE), Jalandhar's Account No.30798750053 (Sbi, Civil Lines, Jalandhar) and there is no entry regarding deposit of remaining 54 drafts in the office of the District Education Officer (EE), Jalandhar's Account No.30798750053 (SBI, Civil Lines, Jalandhar). It makes it clear that she does not deposit 54 drafts in the Government Treasury. With regard to postal orders of the RTI from 07/2013 to 05/2016, she did not make any entry in the cash book regarding RTI drafts. By not depositing 54 drafts, Rs.1000/- each, in the Government Treasury, she has caused financial loss to the Punjab Government.

Thus, the employee has rendered herself liable to be proceeded for award of punishment under rule 5 (v to ix) read with Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970.”

5. It is evident that the Inquiry Officer found that there is no evidence of embezzlement at the end of the petitioner. The conclusive part of

the Inquiry report reads as under:-

“Conclusion:- After a thorough consideration of the record produced during enquiry/statements given, I have come to the conclusion that though Smt.Sarabjit Kaur did not do any embezzlement yet during her posting on the seat, she has done the same by being negligent and careless (mismanagement) towards her duty. The charge levelled against the employee is proved.”

6. The Disciplinary Authority has ordered deduction on the pensionary amount to the extent of 5% on the ground that she was guilty of being negligent and careless towards discharging her duties.

7. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

8. The learned counsel representing the petitioner contends that as per the statement of charge, the only imputation against the petitioner was with respect to the financial loss borne by the department due to her negligence. However, the Inquiry Officer found it otherwise. He submits that there was no charge with regard to the petitioner’s failing to maintain a control register or cash book. There was no charge with regard to the petitioner being negligent and careless while discharging her duties. He further submits that during the inquiry, the petitioner requested the Inquiry Officer to provide her the details of the application submitted under the Right to Information Act, 2005 (hereinafter referred to as “the 2005 Act”) along with fee, however, that said details were never provided to the petitioner. Hence, the petitioner has been seriously prejudiced in the said

scenario

9. On the other hand, the learned State counsel has submitted that though there is no specific/distinct charge of negligence and carelessness on her part, however, the charge against the petitioner covers the imputation of her being negligent and careless.

10. This Court has considered the submissions of the learned counsel representing the parties. It is evident that the Presenting Officer even failed to provide the list of the alleged RTI applications along with the draft of ₹ 1,000/-. In the absence thereof, the Inquiry Officer has correctly concluded that the imputation of embezzlement is not reasonably proved against her. Moreover, there was no distinct charge with regard to her being negligent and careless while on duty.

11. Moreover, now the petitioner has left her heavenly abode. Keeping in view the peculiar facts of the case, the writ petition is allowed. The order dated 09.08.2019 is set aside. The respondents are directed to make consequential payment, if any, within a period of one month, positively, from today.

(Anil Kshetarpal)
Judge

February 01, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No