

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

**CWP-24022-2017  
DECIDED ON: 22.08.2023**

**SUBHASH CHANDER**

**...PETITIONER**

**VERSUS**

**HARYANA URBAN DEVELOPMENT AUTHORITY & ANOTHER**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. R.K. Malik, Senior Advocate  
with Mr. Sunil Hooda, Advocate  
for the petitioner.

Ms. Ruchita Garg, Advocate  
for the respondents.

**SANDEEP MOUDGIL, J**

1. The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in nature of certiorari for quashing the order dated 13.07.2009 (Annexure P-4) vide which the petitioner has been ordered to be compulsorily retired as well as the subsequent order dated 17.02.2012 (Annexure P-7) by which the order of compulsory retirement was modified and the punishment was reduced to initial basic pay and the order dated 03.08.2017 (Annexure P11) vide which the appeal stands dismissed.

2. Learned senior counsel contends that the charges against the petitioner are with respect to transportation and unloading of 1000 bags of cement in a private Godown at one "M/s The Bhiwani Good Luck Co. Op. L&C Society" in place of getting the same delivered at Reserve stock, HUDA Bhiwani. It has been further contended that once the punishment stands reduced from compulsory retirement to the reduction in initial basic pay, then the petitioner cannot be deprived from the financial benefits for the period from 20.07.2009 to the date of re-joining i.e.

14.3.2012. It was further argued that none of the arguments taken by the petitioner

in its reply and thereafter by way of appeal were taken into consideration at the time of passing of the impugned orders. As such, the orders are liable to be set aside.

3. On the other hand, the learned counsel for the respondent has contended that the punishing authority has decided the case of the petitioner as per the provisions of the Punishment & Appeal Rules, 1987. Even otherwise, the nature of punishment to be given to the delinquent officer is given in view of the seriousness of the misconduct committed by such employee.

4. Heard learned counsel for the parties and gone through the record.

5. A perusal of the impugned order dated 13.07.2009 (Annexure P-4) would show that the same has been passed on the premise that government officials shall not be allowed to play with public money, however, this order was set aside vide a subsequent order dated 17.02.2012 (Annexure P-7) which specifically records that no actual loss has been caused to the respondent-Authority. Further the impugned order dated 17.02.2012 (Annexure P-7) does not take into account any of the arguments of the petitioner, is non-speaking and has been simply passed in view of 'sympathetic consideration'.

6. The petitioner alongwith his representation against the order dated 13.07.2009 (Annexure P-4) has placed before the appellate authority two affidavits in support of his version of the case. One of the affidavits (on behalf of member/President of M/s Bhiwani Good Luck Cooperative L&C Society i.e the private godown) mentions that – *"Sh. A.K. Bhalla SDO directed Sh. Subhas Chander J.E. to prepare the indent on dated 13.10.06 at 9.00 AM in my presence."* While the other affidavit filed on behalf of clerk of the private godown states – *"that there was no concern of J.E. Subhas Chander, in taking away the aforesaid truck of cement from the office of HUDA to the private store of Bhiwani Good*

*Luck."* It may be noted that there is no discussion, let alone mention of this

affidavit which supports the case of the petitioner. Besides above, no other previous instance has been pointed out by the respondent wherein the integrity of the petitioner was under doubt. The present case is one such isolated occasion.

7. It can be seen that the appellate authority has not exercised its power as conferred, and appeal has been dismissed by way of passing the impugned order in a summary and cursory manner. The grounds canvassed by the petitioner have not been adverted to. Further, the record doesn't evince any ulterior motive on the part of the petitioner to cause any loss to the respondent-Authority. In fact, contradictory findings with respect to the misuse of public money and loss being caused to the Department, have been given in the orders impugned. The decision of reduction of salary of the petitioner to its initial basic pay of Junior Engineer with the condition that he will not be given any financial benefit for the period he remained compulsorily retired i.e. a period from 20.07.2009 - 14.03.2012 is harsh and not proportional to the charges.

8. Accordingly, this writ petition is allowed and the order dated 13.07.2009 (Annexure P-4) vide which the petitioner has been ordered to be compulsorily retired as well as the subsequent order dated 17.02.2012 (Annexure P-7) by which the order of compulsory retirement was modified and the punishment was reduced to initial basic pay and the order dated 03.08.2017 (Annexure P11) vide which the appeal stands dismissed, are hereby set aside. The respondents are directed to reinstate the petitioner along with all consequential benefits to which he is entitled to, along with interest @ 9% p.a. within a period of one month from the date of receipt of certified copy of this order.

22.08.2023

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

**(Sandeep Moudgil)**  
**Judge**

Yes/No

Yes/No