

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.27281 of 2017 (O&M)
Date of decision : 17.01.2023

Kuldeep Singh

..... Petitioner

versus

Shiromani Gurudwara Parbhandhak Committee

..... Respondent

CWP No.27282 of 2017 (O&M)

Dharminder Singh

..... Petitioner

versus

Shiromani Gurudwara Parbhandhak Committee

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. B.S.Sudan, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Present petitions have been filed invoking writ jurisdiction of this Court under Article 226/227 of Constitution of India, praying for a writ in the nature of Certiorari for setting aside order dated 29.07.2017 (Annexure P-3 & P-4) whereby the services of petitioners have been terminated as punishment.

For convenience the facts are being taken from ***CWP No.27281 of 2017*** titled as ***Kuldeep Singh Vs. Shiromani Gurudwara Parbhandhak Committee.***

The petitioner was working as Member of Security Force at Shri

Darbar Sahib Shri Amritsar. On 21.07.2017 he was accused of having misused

the premises of Gurudwara Sahib. The FIR pertaining to the incident registered at the behest of Manager Takhat Sri Damdama Sahib, Talwandi Sabo (Bathinda) reads as under :-

“A complaint moved by Gurdeep Singh Manager, Takhat Sri Damdama Sahib, Talwandi Sabo (Bathinda) is received. The contents of the same are that: Office of Takhat Sri Damdama Sahib (Guru Kashi) Talwandi Sabo (Bathinda), No. 535 dated 22.07.2017. SHO, Police Station Talwandi Sabo (Bathinda). Sir, it is requested that Bhai Pal Singh helper son of Sh. Gurmail Singh is performing his duties at Sri Guru Teg Bahadur Niwas of Takhat Sri Damdama Sahib Talwandi Sabo (Bathinda). On 21.07.2017 at 9.00 PM, I went for checking to Guru Teg Bahadur Niwas as usually but on checking, the room No. 312 was closed. I opened the same and in the room a girl who stated her name Lovepreet Kaur Sidhu daughter of Amarnath Singh, resident of Gali No. 58 Bhagu Road, Pargat Singh son of Veer Singh Dera Kar Sewa Bhuri Wala, Pal Singh Helper son of Sh. Gurmail Singh, Dharminder Singh member security force son of Ram Singh and Kuldeep Singh member security force son of Nazar Singh were found in objectionable condition. The girl told that Dharminder Singh and Kuldeep Singh Bathinda and Dharampal Singh son of Surjit Singh resident of Gali No. 58 Bhagu Road Bathinda had brought me for one night against an amount of Rs. 6000/-(Rupees six thousand only). The abovesaid persons, while doing the said act, harmed the feelings of Sikh religious. Appropriate legal action be taken against that persons.”

On the basis of the aforesaid incident the impugned order dated 29.07.2017 was passed. Counsel for the petitioners while attacking the same submits that not only the impugned order has been passed in violation of procedural law laid down under the Rules framed under the Sikh Gurdwara Act, 1925 but is also result of hostile discrimination against the petitioner as the third person involved in the aforesaid incident namely Pal Singh working as Helper has been retained in the service.

Counsel for the petitioners submits that the petitioners were apprehended by the police on 22.07.2017 and were admitted to bail on 26.07.2017 and the impugned order has been passed within 3 days i.e. on

thus the same cannot be sustained. Reliance is being placed upon ***Mafatlal Narandas Barot Vs. J.D.Rathod, Divisional Controller, State Transport Mehsana and another, (1966) AIR (SC) 1364*** and ***Diljit Singh Bedi Vs. Shiromani Gurudwara Prabhandhak Committee, Sri Amritsar (2011) AIR (SC) 1633.***

Per contra learned counsel for the respondents submits that it is a case wherein the delinquent employees admitted their guilt by suffering the statements which have been placed on record as Annexures R-1 and R-2 and thus in light of such statements suffered by them there was no need to conduct an inquiry as contemplated under the Rules. He thus submits that no fault can be found with respect to non-compliance of the procedural Rules as pleaded by the petitioner. He further submits that on the statement of Pal Singh, apprehended as Annexure R-3, it is evident that the role of Pal Singh is not at par with that of the petitioners and thus so far as the parity as claimed by the petitioners is concerned, the same is also misconceived. In support of his contention learned counsel for the respondents relies upon Division Bench judgment of this Court passed in ***CWP No.5655 of 1999 titled as Dayal Singh Vs. SGPC dt.13.09.2000.***

I have heard learned counsel for the parties and have gone through the records of the case.

Learned counsel for the petitioners does not dispute that the allegations levelled against the petitioners fall within the ambit of gravest misconduct and the same would entail major punishment of termination. So far as his reliance upon the alleged violation of procedural Rules is concerned, the plea raised is fallacious. Dharminder Singh suffered the statement to the following effect :-

“I, Dharminder Singh, son of Ram Singh, am resident of village Kumbhe, Distt. Barnala. In the evening of 21.07.2017, brought a woman at Shri Guru Teg Bahadar Inn (Sran) of Takhat Sahib, with an intention to do immoral act. This is my fault. In this connection Kuldeep Singh, Member Security Wing, Pal Singh, Helper, are also involved with me.”

Likewise, Kuldeep Singh stated as under :-

“I Kuldeep Singh, Member Security Wing, was asked in the evening of 21.7.2017 by Pargat Singh, Baba Kar Sewa Bhoori Wale, that a lady is to be picked up from Bus Stand, Bathinda. I took along Dharminder Singh on motorcycle, picked her up from bus stand and after dropping both of them at Talwandi Sabo Khande Wale Chowk, I went to my home and whatever happened thereafter is not in my knowledge.”

Thus, to say that despite the petitioners having admitted their misconduct in the aforesaid terms, still the inquiry was required to be held cannot be accepted. Once the delinquent employee admits his guilt, he cannot be allowed to turn back and plead violation of principles of natural justice. Reliance can be placed upon by dictum of law laid down by Division Bench of this Court in **CWP No.5655 of 1999 (supra)** wherein it was held as under :-

“There is a writing by the petitioner in his own hand which has been attested by the cashier, Store-keeper and some others in which it is stated that on January 18, 1995, while on duty regarding counting of money from the ‘Golak’ in ‘Gurdwara Alamgir, somebody saw him and thereafter he brought Rs.7310/- from his room and redeposited the same in the Golak (Chest). It is further stated “I have done a mistake and will not repeat the same in future.” In view of this statement of the petitioner, we do not find that any unreasonable view has been taken by the respondent in passing the impugned order. No regular enquiry in the view of the above statement was required. It cannot be imagined that the statement made by the petitioner and written in his own hand and attested by so many was under pressure or coercion. Dismissed.”

Thus, the petitioners cannot get any benefit from the law laid down by Constitution Bench in **Mafatlal Narandas Barot’s case (supra)**. Likewise, in the case of **Diljit Singh Bedi’s case (supra)** the issue was as to whether a preliminary inquiry conducted by a Sub Committee can replace a regular inquiry.

Thus, the ratio of law laid down in the said case is also not applicable in the present case.

As a sequel of the discussion made hereinabove, no fault can be found with the impugned orders in the present writ petitions.

Consequently, the present writ petitions are dismissed.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed off.

(PANKAJ JAIN)
JUDGE

17.01.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable:	No