

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9724-2013 (O&M)
Reserved on: 01.05.2023
Date of decision: 17.05.2023

AVTAR SINGH

..Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Bains, Sr. Advocate
with Mr. Amarjeet Singh, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Vivek Sharma, Advocate
for respondent No.2.

Mr. G.S. Jaswal, Advocate
for respondent No.4.

ANIL KSHETARPAL, J.

1. The petitioner while filing the writ petition *inter alia* prayed for quashing the charge sheet and enquiry report, however, during the pendency of the writ petition, the Principal Secretary, Government of Punjab was requested to pass a considered order, while keeping its implementation in abeyance. On 21.04.2023, the concerned officer passed a detailed order, hence, it would be appropriate to examine the correctness of the said order rather than delving into the correctness of the charge sheet and enquiry report.

2. The petitioner at the relevant time after appointment as Veterinary Doctor, was on the probation period. On 04.01.2012, he apart from the Civil Veterinary Hospital, Arianwala, Faridkot, was also given the

additional charge of Civil Veterinary Hospital, Golewal. The moment he took charge, he noticed that the stock of medicines which had expired or had to expire in the near future have been stored in the hospital.

3. The disciplinary proceedings were ordered against him on the basis of the following charges:-

“Charges against Dr. Avtar Singh Veterinary Officer, Civil Veterinary Hospital, Arianwala, Faridkot.

That on 04.05.2012, in related to the News published in Newspaper Desh Sewak about in the use of expiry medicines the preliminary inquiry conducted under Dr. K.C. Mittal, Joint Director, Animal Husbandry (AP). Inquiry Officer submitted his inquiry report under letter No.1735 dated 07.05.2012 and inform that during this inquiry he noted down the statements of different officer. Inquiry officer told that in the District of Faridkot, the charge of medicine is with Mr. Khairati Lal Veterinary Inspector, Faridkot, after he receives the supply of medicines, it is been distributed to other branches. According to inquiry officer, despite the repeated instructions of Mr. Khairati Lal and Dr. Rajnish Gupta, Civil Veterinary Officer, Civil Veterinary Hospital, Faridkot about the supply of medicine Dr. Avtar Singh Veterinary Officer, Civil Hospital, Arianwala did not received the supply of medicine. For that reason they have to informed Deputy Director, Animal Husbandry, Faridkot, Deputy Director, Animal Husbandry, Faridkot under the letter no.703 dated 05.03.2012 instruct Dr. Avtar Singh to immediately obtain the supply of medicine but still he received supply of medicine on 03.05.2012. As well as during inquiry Deputy Director, Animal Husbandry, Faridkot give the statements that Dr. Avtar Singh Veterinary Officer, Arianwala Kalan has given the supply of meniral mixture dated 01.03.2012, which he did not distribute it between Animal owners. Which he himself distributed on 31.03.2012 after appointing committee under his observation. The inquiry conducted by the Deputy Director, Animal Husbandry, Faridkot. In the resolution passed by the Panchayat and the statements given by different persons in which the Dr. Avtar Singh was accused for receiving more fees. Dr. Avtar Singh has accepted that he complaint about expire medicine to the Deputy Commissioner and Media.

Despite the repeated information from Mr. Khairati Lal Veterinary Inspector and Dr. Rajnish Gupta and written direction issued by Deputy Director, Faridkot not

obtaining the supply of medicines and because of which medicines got expired and untimely distribution of mineral mixture and receiving more fees from local people all these damaged image of the Department. Dr. Avtar Singh disobeys the Punjab Government Employee Conduct Rules, 1966 by without bringing the matter to his seniors notice and state away went to Media. Because of which Dr. Avtar Singh Veterinary Officer, Civil Veterinary Hospital, Faridkot is responsible for Punishment under Punjab Civil Services (Punishment and Appeal) Rules, 1970 under Rule 8.”

4. In substance, the following four charges are levelled against the petitioner:-

“Charge No.1: From the entire circumstances of receiving medicines late and keeping in the light of facts this charge is partially proved against Dr. Avtar Singh, Veterinary Officer.

Charge No.2: It does not seem that any serious irregularity was committed by Dr. Avtar Singh, Veterinary Officer in the distribution of mineral mixture.

Charge No.3: From the entire circumstances and keeping in the light of facts, as the matter was brought into media, there is violation of Rule 8 1966 (Connection with Press or Radio) and Rule 9 (Criticism of Government). Therefore, this charge has been proved against the said officer.

Charge No.4: From the entire circumstances and keeping in the light of facts, allegation of charging more than the prescribed fees is proved against Dr. Avtar Singh, Veterinary Officer.”

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook as well as the written arguments filed by them.

6. It has appeared in evidence that in December, 2011, medicines were supplied from the Veterinary Medical Store, Jalandhar to District Faridkot.
7. The dispute is with regard to the supply of following medicines:-

Name of Medicine	Expiry Date	Remaining	Amount (in Rs.)
U-Trox Bolus	29 February 2012	4x8=32	1448.40
Doxycycline Bolus	31 March 2012	2x6=12	1411.20
Biofertyl Tablet	31 March 2012	2x50=100	1170.00
Total			4030.00

8. After the receipt of reply to the charge sheet from the petitioner, an enquiry officer was appointed, who submitted a report holding that the charges levelled against the petitioner are partially proved. Pursuant to the aforesaid enquiry report, the Principal Secretary held that charge No.2 is not a serious irregularity and it is not proved against him, whereas, charge No.1 is partially proved against the petitioner and charges No.3 and 4 have been proved against the petitioner. Accordingly, the disciplinary authority imposed the penalty of stoppage of two increments with the cumulative effect.
9. Qua charge No.2, the petitioner has been absolved by the Principal Secretary, hence, it needs no further discussion. With respect to charge No.3, it may be noted that the department only examined Dr. Parminder Singh, the then Deputy Director, who is already facing charge sheet against him with regard to the same incident. The department also examined Dr. Rajnish Kumar, who held the preliminary enquiry and

Dr. Prakash Chand Jindal, who submitted another fact finding inquiry report Ex.PW3/A. In substance, the allegation against the petitioner is that he has called the media and exposed the department. It is alleged that Rules 8 and 9 of the Punjab Employees (Conduct) Rules, 1966 (hereinafter referred to as the '1966 Rules') have been violated by the petitioner, which are extracted as under:-

8. Connection with press or Radio:-

*[1] No Government employee shall except with the previous sanction of *[prescribed authority] own wholly or in part or conduct or participate in the editing or management of, any newspaper or other periodical publication ** [or in Electronic Media].*

****[2] No Government employee shall except with the previous sanction of the Government or the prescribed authority or except in the bona fide discharge of his duties participate in the radio broadcast or contribute an article or write a letter to a newspaper or periodical either in his own name or anonymously or pseudonymously or in the name of any other person.*

Provide that no such sanction shall be required if such contribution broadcast writing is of a purely literary, artistic or scientific character.

9. Criticism of Government- *No Government employee shall in any radio broadcast or electronic media or in any document published in his own name or anonymously or pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion-*

(i) which has the effect of any adverse criticism of any current recent policy or action of the Government of India, Government of Punjab or any other State Government;

(ii) which is capable of embarrassing the relations between the Government of Punjab and the Government of India or the Government of any other State in India; or

(iii) which is capable of embarrassing the relations between the Government of India or the Government of Punjab and the Government of any foreign State; provided that nothing in this rule shall apply to any statements made or views expressed by a Government employee in his official capacity or in the due performance of the duties assigned to him."

10. On a careful reading of Rule 8 as well as 9 of the 1966 Rules, it is evident that the charge against the petitioner does not fall within the scope of the said rules. There is no allegation with regard to the violation of Rule 8. Rule 9 relates to the communication to the press or allegation in any public utterance which has the effect of any adverse criticism on any current recent policy or action of Government of India or Punjab Government, which embarrasses the relationship between the Punjab Government or Government of India or any other State. On the reading of the new report, it is evident that the petitioner is not attributed to have given news reports or any criticizing statements in the press. In the news report published in the Punjabi Tribune on 04.05.2012, it has been stated that the medicine which was to be supplied to the owners of the animals, free of cost, expired due to the lack of distribution. There is only reference to Dr. Avtar Singh in the whole news item, wherein, it has been stated that certain expired medicines have been issued to the veterinary officer in-charge of Civil Veterinary Hospital. The petitioner is not stated to have given any statement. In the next news item which published on 07.05.2012, it has been highlighted that the department has started making efforts to suppress the doctor who raised the issue of expired medicine in the press. There is no evidence to prove that on the basis of the information or statement given by the petitioner, the aforesaid news item were published. It is the defence of the petitioner that since there was dispute with regard to the receipt of the expired medicines, hence, the media came to know and picked up a story, however, he never gave any statement to the media. Moreover, as already noticed, no press correspondent or any other person related to the media has been examined to

prove that the petitioner had given the said statements. Hence, this charge is also not substantiated against the petitioner.

11. This Court now proceeds to focus on charge No.4 levelled against the petitioner. As per the aforesaid charge, the petitioner has charged more than the prescribed fee. This charge is based upon a resolution passed by the Gram Panchayat disclosing that the Panchayat has received the complaint that petitioner is charging more than the prescribed rate of medicines. No witness either from the Panchayat or the alleged complainants who had made a complaint to the Panchayat have been examined during the inquiry. The resolution has been produced by the departmental official. He cannot prove the contents of the aforesaid resolution.

12. Hence, charge No.4 is also not substantiated against the petitioner.

13. This Bench now proceeds to examine charge No.1, which is the basis of the entire dispute. Before examining the charge in detail, it would be appropriate to take note of the relevant facts. On 04.01.2012, the petitioner was given the additional charge of Civil Veterinary Hospital, Golewala, apart from the Civil Veterinary Hospital, Arianwala, Faridkot. When he received charge from his predecessor, he noticed that certain expired medicines are kept in the store. He is stated to have immediately addressed to Deputy Director, Animal Husbandry Department, Faridkot, on 04.01.2012 itself. Since, no action was taken, the petitioner sent a registered letter to the Director, Animal Husbandry, Punjab, on 16.04.2012 to stop the supply of expired medicines, but still no action was taken. The petitioner, thereafter,

went to the Financial Commissioner-cum-Animal Husbandry on 16.04.2012 (gate pass is Annexure P3/T) but again he was not entertained about this matter. On 04.05.2012, Dr. Gautam Prakash, held a fact finding enquiry and found that the medicines were lying expired in the store and found that store in-charge and store keeper are responsible. It is the allegation of the petitioner that on 05.05.2012, Deputy Director Dr. Parminder Singh forged a letter No.703 dated 05.03.2012 to prove that the petitioner was informed to receive his fresh stock of medicine. This letter has been subsequently found to be fabricated and inserted subsequently. In a subsequent enquiry, the statement of dispatcher Sh. Kulbir Singh admitted that the forged dispatch No.703 dated 05.03.2012 was inserted in the month of May on the oral orders of Director, Animal Husbandry, Faridkot and the statement has been produced as Annexure P-27. There is another facet involved in the matter also. The petitioner has produced the statement of veterinary officer Mr. Khairati Lal, who was in-charge of the store. His statement has been produced as Annexure P-12, according to which the medicines were received from the office of Assistant Director, Animal Husbandry, Jalandhar on 29.12.2010 and the medicines were further supplied to the local hospitals from 04.03.2012 to 31.03.2012. When Mr. Khairati Lal was questioned about the delay, he submits that medicines were received late and there was pressure due to overload of work.

14. On the other hand, Sh. Jarnail Singh, the Veterinary Officer submits that Sh. Khairati Lal informed him on telephone on 25.03.2012 to take supply of the medicine and when he visited the Poly Clinic, Faridkot, it was found that U-Trox Bolus has expired in February, 2012, whereas, the

remaining medicines were to expire on 31.03.2012 (within a period of 5 days).

15. Keeping in view the aforesaid facts and discussion, even if its assumed that the petitioner refused to receive the supply of medicines, which were going to expire by the end of the March, 2012, even then the petitioner is not guilty of any misconduct. The petitioner is on the probation period. Even if he refused to receive the supply of the medicines, which were going to expire within next few days, he is justified in refusing the same. In this case, it is proved that the effort was made only 6 days before the date when the medicine was to expire. In such circumstances, the petitioner has not been involved in the misconduct.

16. In view of the aforesaid detailed discussion, the result is inevitable. Though, this Court is conscious of the fact that ordinarily reappreciation of evidence in a writ petition should not be carried out, however, in the facts of the case, particularly when the allegations against the petitioner are not only unsubstantiated but he was trying to stop the supply of expired medicines, which was in the public interest, this Court has found it appropriate to interfere. It may be noted here that there is no absolute bar from reappreciating the evidence, particularly when that not only the charges are baseless but even no evidence were the main has been produced by the department to prove charges against the petitioner.

17. Consequently, the writ petition is allowed. The order passed by the concerned officer on 21.03.2023 is set aside. It is ordered that the petitioner shall be considered for clearing his probation forthwith and he

shall be released consequential benefits if the competent authority permits the petitioner to clear his probation period.

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

May 17th, 2023

(ANIL KSHETARPAL)

Ay

JUDGE

Whether speaking/reasoned

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Yes/No

Whether reportable

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Yes/No