

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(222-A)

CWP No. 13778 of 2021

Date of Decision : 08.02.2024

Ranjit Singh Malik

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sardavinder Goyal, Advocate for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Mr. M.K. Mittal, Advocate for respondent No. 3.

Mr. Surinder Chaudhary, Advocate for respondent No. 4.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 19.11.2020 (Annexure P-19) by which the punishment of stoppage of 5% cut in pension for a period of 05 years has been awarded against the petitioner Under Rule 1 of Haryana Civil Services (Punishment and Appeal) Rules, 2016.

2. It may be noticed that the petitioner was charge-sheeted after retirement in respect of certain acts attributed to the petitioner while working on the post of Sub Divisional Officer. The allegation was that due to the negligence in supervision, 8700 doses of FMD vaccine were damaged as the same got frozen, due to which a financial loss was caused

to the department to the tune of ₹56,985/- . The said allegation alleged in the charge-sheet was replied by the petitioner vide letter dated 05.06.2018 and ultimately, an Enquiry Officer was appointed to enquire into the allegation.

3. The Enquiry Officer gave his report on 27.05.2019 proving the charges alleged against the petitioner and thereafter, the punishment was imposed upon the petitioner vide order dated 19.11.2020 (Annexure P-19) and a cut in pension to the tune of 5% for a period of 05 years was imposed. The said order is under challenge in the present petition.

4. Learned counsel for the petitioner argues that keeping in view the fact that the vaccine was not stored under the direct control of the petitioner and he was only posted there being a Supervisory Officer still the punishment has been imposed and that too a cut in his pension for the period of 05 years though, it is a conceded position that there was a total loss of ₹56,985/- and a punishment of cut in the petitioner's pension for a period of 05 years to the tune of 5% is totally disproportionate to the charged alleged and proved. Learned counsel for the petitioner submits that the actual custodian of the vaccine damaged has not been even proceeded against, whereas the Supervisory Officer i.e. the petitioner has been imposed with the punishment of cut in pension to the tune of 5% for a period of 05 years.

5. Learned counsel for the respondents, on the other hand, submits that though the petitioner was a Supervisory Officer but it was his duty to ensure that everyone under him discharge the duties in accordance

with law and as the Vaccine got destroyed, which was placed in a deep freezer, which was under the supervision of the petitioner, the cut in pension to the tune of 5% for a period of 05 years is perfectly valid and legal.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It may be noticed that the total loss as mentioned in the charge-sheet itself is ₹56,985/-. Once, the petitioner was working as a Supervisory Officer and it is a conceded position that the Vaccine was stored under the control of VLDA Ashok Malik, who was working under the supervision of Dr. Sudhir Malik and those two officials were not even proceeded against, imposing the punishment upon the Head of the Dispensary i.e. the petitioner so as to recover the total loss is totally arbitrary and illegal, especially when it has come on record that the Vaccine got frozen due to the technical problem with the freezer where those were being stored.

8. The argument of learned counsel for the petitioner is valid that once the Vaccine was under the control of VLDA Ashok Malik, who was working under the supervision of another Doctor namely, Dr. Sudhir Malik and these two employees were not even proceeded against, directly accusing the petitioner being the Head of the Dispensary concerned so as to hold him guilty is totally arbitrary and illegal on the part of the respondents.

9. It is a settled principle of law that the punishment, which is to be imposed upon an employee should be commensurate to the charges alleged and proved. In the present case, the petitioner was proceeded against being a Supervisory Authority and not with regard to the authority, who was having a control over the Vaccine, which got damaged. Once, the petitioner is only a Supervising Authority, at the most, the loss suffered by the department could have been recovered from the petitioner, which even according to the respondents is ₹56,985/-. The said amount has already been recovered keeping in view the interim order passed by a Co-ordinate Bench of this Court. That being the factual position, keeping in view the facts and circumstances of the present case, where no other employee, especially, who was the custodian of the Vaccination which got destroyed or was the immediate Supervisory Officer was not even charge-sheeted, imposing the punishment upon the petitioner so as to impose a cut in pension to the tune of 5% for a period of 05 years as well as the recovery of loss caused is totally disproportionate to the charges alleged and proved.

10. During the argument, learned counsel for the petitioner submitted that the petitioner concedes that in case, the loss caused to the State Exchequer i.e. ₹56,985/-, is to be recovered from the petitioner, he will be satisfied as petitioner has only relieved from service and want this chapter to end, especially when a sum of more than ₹3 lacs is being recovered keeping in view 5% cut in the pension of the petitioner.

11. Keeping in view the said fact, the punishment imposed by the respondents on the petitioner is without considering the actual facts and the duties, which was required to be done by the petitioner, especially when it goes without saying that as per the fact which has come on record that the Vaccine got damaged due to the technical fault in the freezer, recovery of the loss caused to the State on account of damaged Vaccine, will be a proportional punishment.

12. Keeping in view the facts and circumstances of the present case, once the actual loss suffered by the State has already been recovered from the petitioner, no further recovery be done from the petitioner from his pension and the order of punishment be treated as modified to the said extent.

13. Petition is disposed of in above terms.

February 8th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No