

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

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2024:PHHC:017394-DB

LPA No.597 of 2022 (O & M)
Date of Decision: 08.02.2024

Anil Kumar Angrish

.....Appellant(s)

Versus

National Institute of Pharmaceutical Education and Research, Mohali and
another

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. K.K. Gupta, Advocate,
for the appellant.

Mr. Alankrit Bhardwaj, Advocate,
for the respondents.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Consideration in the present letters patent appeal is to the order passed by the learned Single Judge in CWP-13601-2020 filed by the appellant which was dismissed on 29.03.2022. The learned Single Judge has declined to interfere in the departmental proceedings which are in the form of charge sheet dated 06.08.2020 (Annexure P-12).

2. The reasoning which weighed with the learned Single Judge was that the departmental proceedings were within the domain of the discretion of the Punishing Authority and the writ Court is not required to interfere in the departmental proceedings at the stage of issuance of the charge sheet. In the absence of any violation of any statutory Rules or lack of authority with the person issuing the charge sheet, interference cannot be done. Reliance was placed upon Rule 14(q) of the National Institute of Pharmaceutical Education & Research Statutes, 2003 to come to a finding that the competent authority to

Director. The said Rule specifies the powers, duties and functions of the Director, Dean, Head of the Department and Registrar of the Institute. Rule 14(q) reads thus:-

“(q) To take disciplinary action against the employees, and to suspend them pending inquiry to administer warnings to them or to impose any penalty in accordance with the rules.”

3. The learned Single Judge has also found that the record shows that the competent authority had duly come to the finding that the reply filed by the appellant-petitioner was not satisfactory. Before the charge sheet was framed, show cause notice dated 20.05.2020 (Annexure P-9) was issued to the petitioner as to why action be not taken against him for his multiple acts of serious misconducts and gross subordination and the reply as such was called for.

4. In sum and substance, all the allegations as such pertain to the period when the appellant was functioning as Officiating Registrar from 15.09.2018 to 21.09.2018 and 08.10.2018 to 29.10.2018. The Articles of Charge, which have now been served upon him, would go on to show that the charge under Article I related to litigation expenses incurred to the tune of Rs.3,25,000/- for engaging a senior counsel who was not on the Panel of the Institute and the Panel's lawyers were to be paid only Rs.33,000/-, thereby causing loss to the government exchequer. Similarly, under Article II, reinstatement of Security-cum-Estate Officer, Capt. Kshitij Sharma, was done which was stated to be in contravention of the previous decision of the Board of Governors (BOG) and only two days prior to the meeting of BOG which was held on 20.09.2018. Similarly, under Article III, there was an allegation that he had furnished false information to secure the post of Assistant Professor with respect to experience of 6 years and after attaining the essential qualification of

Ph.D. for the post he had applied. Under Article IV, there were allegations that

he had filed letters patent appeal being LPA No.1443 of 2018 against the interim order passed in CWP No. 15608 of 2018, which had been filed by the Ex. Director against the order of the Chairman. Under Article V, there were allegations that in CWP No.30037 of 2017, he had placed on record few Annexures which were official documents and were not procured through legitimate means through RTI and, therefore, by the act of omission and commission, he had failed to maintain absolute integrity and acted in a manner unbecoming of NIPER employee. Under Article VI, while functioning as Internal Audit Officer on 17.05.2019, he recommended release of salary to Capt. Kshitij Sharma (SEO) thereby causing loss to the government Exchequer whereas under Article VII, the charge was that while securing his appointment, in his application dated 12.04.2006, he had stated that he had worked as “*Senior Lecturer*” from August, 2001 to 10.07.2004 at GYIMT, Mohali, which was stated to be false information as he worked as “*Lecturer*”. Resultantly, the contravention of the provisions of Rule 3(1)(i), (ii), (iii) and (xxi) of the Central Civil Services (Conduct) Rules, 1964, as applicable to NIPER employees were the charges as such and enquiry was proposed to be held under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

5. It is in such circumstances, the learned Single Judge has come to the conclusion that departmental inquiry proceedings against the petitioner were intended only to grant him proper opportunity of hearing and the competent authority would again be issuing show cause notice of punishment if he was found guilty during the proceedings of enquiry. The aspect of *malafides* as such has also been rejected by noticing that respondent No.2 was no more the Director of the Institute and had relinquished the charge. We have also perused the short reply filed by respondent No.2, Director (Additional Charge), in which,

it has been categorically mentioned that the said official is based in Lucknow

since March, 2020 and worked online due to spread of Covid-19. All financial and disciplinary decisions were taken by him on the basis of relevant records/documents/files which were supplied to him by the NIPER Administration through online mode. It was also averred that the additional charge had been given to the said official on account of the suspension of the earlier Director.

6. Thus, the argument raised regarding *mala fide* as such on the part of respondent No.2 also cannot be accepted in the peculiar facts and circumstances. It is settled principle that the employer can go into the allegations of misconduct as such of the employee and it can only be proved by way of departmental proceedings. Therefore, the learned Single Judge rightly declined to interfere into the issues. It is for the department to prove the charges. It is only in case it is able to substantiate the same by producing the evidence, adverse action would be taken against the employee. The employee would have an opportunity before the Inquiry Officer to call for the records, file his defence, examine the witnesses to controvert the allegations made against him. Keeping in view the nature of charges as such, we are not inclined to interfere in the well reasoned order passed by the learned Single Judge. It is quite surprising that 3-1/2 years have gone by and we are informed that no Inquiry Officer has been appointed. Counsel has also not been able to bring to our notice that there were any interim orders passed by this Court.

7. Accordingly, finding no merit in the present appeal, the same stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

08.02.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No