

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11760-2016 (O&M)
Date of decision: 29.01.2024

Mahesh Kumar Sharma

....Petitioner

Versus

State of Punjab and Ors

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Manoj Kumar, Advocate
for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab
for respondents No.1 and 2.

NAMIT KUMAR J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari for quashing of charge-sheet dated 02.12.2013 (Annexure P-7), enquiry report dated 30.10.2015 (Annexure P-12) and the order dated 07.04.2016 (Annexure P-15) passed by the Secretary, Local Government Department, Punjab, whereby the petitioner has been awarded the punishment of deduction of 5% in his pension for a period of 01 year.

Learned counsel for the petitioner submits that apart from the other ground which have been taken in the present petition, one of the ground of challenge to the said order is that the petitioner was called for personal hearing on 17.03.2016 and the petitioner duly visited the office of the Secretary, Local Government Department, Punjab on 17.03.2016, however, Sh. Vikas Partap Singh, IAS, Secretary, Local

Government Department, Punjab, was not available in his office on the said date and thereafter, the impugned order dated 07.04.2016, has been passed by Sh. D.K. Tiwari, IAS, who was officiating on the post of Secretary, Local Government Department, Punjab on that day as Sh. Vikas Partap Singh, IAS, had proceeded on leave.

The impugned order dated 07.04.2016, reads as under:-

“4. And whereas the reply was demanded by sending the copy of enquiry report to Sh. Mahesh Kumar Executive Officer (Retired), and Sh. Shallyraj, Assistant Municipal Engineer and they stated themselves to be innocent. Thereafter, both the officials were given opportunity for personal hearing on dated 17.03.2016 and during the same they also stated themselves as innocent.

5. Therefore, while considering the facts of the case, conclusion made by the enquiry officer in the report and the submissions given by the concerned delinquent officers the charge-sheet issued in this case is disposed as under;-

(A) Sh. Mahesh Kumar, Executive Officer is punished with a deduction of 5% in his pension for the period of one year.

(B) Sh. Shallyraj, Assistant Municipal Engineer is punished with censure.

(C) Sh. Sarabjit Singh Executive Officer and Sh. Sunil Khosla Superintending Engineer are not found guilty and the charge-sheet against them is closed.

6. This order would be issued with the approval of Minister, Local Government.

*Dated, Chandigarh
7 April, 2016*

*D.K.Tiwari, I.A. S.,
Secretary, Punjab Government
Local Government Department.*

*Endst. No.6/109/2015-2LG3/730147/1 Dated, Chandigarh:
7 April, 2016”*

From the perusal of the aforesaid impugned order, it is clear that on 17.03.2016, when the petitioner was called for personal hearing, Sh. Vikas Partap Singh, IAS, was the Secretary, Local Government Department, Punjab and as per this order, the petitioner was granted personal hearing on 17.03.2016, however, the impugned order has been passed by the successor in office on 07.04.2016. Meaning thereby, the officer who has heard the petitioner has not passed the impugned order, which is clearly in violation of the principles of natural justice and consequently, the impugned order dated 07.04.2016, is set-aside and the matter is remanded back to the Secretary, Local Government Department, Punjab, for taking afresh decision, within a period of 03 months from the date of receipt of certified copy of this order.

Disposed of in the aforesaid terms.

(NAMIT KUMAR)
JUDGE

29.01.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No