IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-24987-2019 (O&M)
Date of decision: 02.05.2024

RETIRED MUNICIPAL EMPLOYEES WELFARE ASSOCIATION

......Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.......Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - Mr. Peeush Gagneja, Advocate
for the petitioner.

Ms. Harpriya Khaneka, DAG. Punjab.

Dr. Puneet Kaur Sekhon, Advocate
for respondent No.5.

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VINOD S. BHARDWAJ, J. (Oral)

CM-16726-CWP-2022

For the reasons mentioned in the application, the same is allowed as prayed for and additional affidavit dated 11.07.2022 submitted on behalf of respondents No.2 and 3 is taken on record.

CWP-24987-2019

1. Prayer in the present writ petition is for seeking issuance of directions to the respondents to take appropriate action against the erring

officials, employees and Subordinate staff of Urban Local Bodies, Punjab for having caused loss to the State exchequer.

2. The petitioner-Association approached this Court, aggrieved of the embezzlement, forgery and wrongful loss caused to the State exchequer for personal gains by the employees, officials and Audit Staff as well as the Subordinate Staff of the Department which was inquired into and a recommendation was also made by the Vigilance Department for taking action against the authorities, however, as no action was taken, the petitioners approached this Court. Reliance was placed on the enquiry report (Annexure P-4) to substantiate the case and for mandating that the respondent-authority already initiate appropriate proceedings against the officials of the Municipal Corporation, Abohar.

3. An additional reply by way of affidavit of Sukhpreet Singh Sidhu, Joint Director, Directorate of Local Government, Punjab was filed on behalf of respondents No.1 to 4. In the said additional reply, the factum of the recommendations made by the Vigilance Bureau, Punjab is not disputed. It has been informed that in compliance to the said recommendations made by the Vigilance Bureau, Punjab and other complaints containing similar allegations, appropriate action had been taken by the authorities. The details of the complaint submitted by the petitioner to the respondent are tabulated as under:-

Sr. No	*Complaint dated and submitted by*	*Submitted to*	*Summary of allegations*
1.	*10.10.2014 by Sh. Ashok Kumar Watts*	*Director, Vigilance and Director Local Government, Punjab*	*1. In regard scam of Crores of Rupee by printing forged Receipt Books.* *2. Approving Drawing No.* *3 by taking residential fee instead of commercial fee.*

2.	*20.08.2014 by Sh Ashok Kumar Watts*	*Director, Vigilance, but the same was forwarded by the Chief Director Vigilance Bureau to the Director, Local Government, Punjab vide its letter No. 37175 dated 16.09.2014.*	*1. The Municipal Council has recovered an amount of Rs. 26 lacs from M/s Mehndi Trades Pvt. Limited, Abohar, but the same was not deposited in the account of Municipal Council, Abohar.* *2 Excess payment of Rs 2,16,000 to Ved Prakash, Junior Assiatant due to negligence and collusion of accounts branch employees of Municipal Council, Abohar.* *3. Excess payment of RS 50,000 to Sh Gore Lal, Mali due to negligence of employees.* *4.Regarding sending medical allowance for 14 months in the account of deceased Smt Krishna Devi.* *5 Regarding double payment of RS 26,235 to Sh Raj Kumar Munjal. 6.Regarding non payment of Rs 8580 to Sh Satnam Singh, Sub Fire Officer but later on demanding the same from the concerned.* *7. Regarding causing*

			financial loss of Rs 11,000. *8. Regarding non construction of wallsat Agarsain Chowk and resultantly causing financial loss of crores of rupees*
3	*18.09.2014 by Sh Ashok Kumar Watts*	*Local Government Minister and Director Vigilance.*	*Similar to Allegations mentioned in Point No 1 and 5 of complaint mentioned at Sr No 2.*
4.	*18.06.2014 by Punjab Municipal Pensioners Association (Petitioner)*	*Director, Vigilance Bureau, Local Government, Punjab*	*In addition to allegations mentioned in Sr No 2 following allegations were mentioned in this complaint:-* *1. Regarding excess payment of Rs 90,000 to Babu Ram Arya, Clerk* *2. Regarding non recovery of building advance and interest from Sh Ashok Kumar, Leading Fireman* *3. Regarding conversion of the post of Clerk to Liberarian on which Sh Shashi Bala Kukkar was working*
5.	*16.08.2014 by Sh. Ashok Kumar Watts*	*Director (Vigilance), Local Government, Punjab*	*Same allegations as mentioned in Sr. No. 2.*
6.	*29.10.2014 by Retired Municipal Employee Union,*	*Director (Vigilance), Local Government, Punjab*	*Almost all allegations are same as mentioned in Sr. No. 2 except the charge*

	Abohar.		*where it has been mentioned that MC passed shopping mall with area of 99,550 sq yards whereas office report mentioned that area of this mall was 100803 sq yds thereby giving financial benefit to mall owners.*
7.	*22.09.2014 made by Sh. Ashok Kumar Watts*	*Director, Vigilance Bureau, Punjab*	*Elaborated the allegations levelled in previous complaints.*
8.	*01.12.2014 by Sh. Ashok Kumar Watts*	*Director (Vigilance) Bureau, Punjab*	*As reminder of previous complaint by adding to take action as per audit report.*
Note :- In addition to these complaints, Sh Ashok Kumar Watts and petitioner has submitted numerous letters to the Department as reminders or demanding personal apppearence or for inaction by the Department on the complaints mentioned above.			

4. It is stated that the Vigilance Bureau registered vigilance enquiry No. 7 dated 27.03.2015 with regards to the allegations leveled by the petitioner pertaining to wrongful refund of cheque of Rs.26 lakhs to M/s Mehndi Mac Pvt. Ltd. and other under complaint No. 65/14. A complaint regarding tampering with the conditions of auction of shops was also examined by the Vigilance Bureau as Complaint No. 39/15 and a detailed enquiry was conducted. The Vigilance Bureau gave its finding on enquiry report dated 27.01.2016 as under:-

> *"Keeping in view the aforesaid facts, in my opinion, by accepting less fee of Rupees 63,98,840/-, in the year 2011, from M/s Mehandi Max Pvt. Ltd. Tara Estate Abohar, for causing Financial loss to the Government, the officials/ employees remained posted at Municipal Council Abohar, against these officials/ employees and for returning*

> *cheques of Rs. 26,00,000/- in connivance and for causing loss to the Government, to initiate departmental action against Jaspal Singh (Clerk), AME Rohtas Garg. (Now ME). Bhushan Kumar Executive Officer, Apart from this, it would be appropriate to write to the Secretary, Local Government, Punjab Chandigarh for taking action against Veena Rani Pension clerk (now Inspector). Surjit Singh Accountant and Narinder Singh Accountant, for being Negligent in their duty."*

5. It is further stated in the above said additional affidavit that simultaneously a report had also been received from the Regional Deputy Director, Local Audit, recommending for taking action against the guilty officials. The same were forwarded by the competent authority to the Director as the Chief Vigilance Officer of the Department. He recommended the following action against the concerned officials:-

> *(i) In respect of fake receipts it was recommended that Executive Officer, Municipal Council be directed to get FIR registered against the concerned Jaspal Singh, Clerk.*
>
> *(ii) With respect to the issue of Rs 26 lakhs after examining the entire issue, disciplinary action was recommended against the responsible clerk Jaspal Singh, AME Rohtash Garg and EO Bhushan Kumar. Apart from that it was also recommended that Executive officer be directed to take necessary action regarding the issue of less deposition of Rs 63,98,940 by M/S Mehendi Max Pvt Ltd.*
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> *iii) Regarding issue of embezzlement of Rs 3,06,85,349 it was recommended that AME Rohtash Garg had not followed the various instructions issued by the Government and had issued letter seeking deposition*

of Rs 3,06,85,349 as basic trunk charges from the concerned firm negligently.

iv) Regarding issue of Rs 7000 medical allowance of Smt Krishna Devi: After examining the issue it was recommended that as Rs 7000 has been paid to the concerned, no further action is required to be taken in the matter.

(v) Regarding Advance to Azad Co operative Society :- After examination it was mentioned by the Chief Vigilance Officer that regarding this matter action against Late Sh Diwan Chand, Executive officer and Karam Singh, AME has been taken and punishment of stoppage of increment has been given by Government.

vi) Payment of Rs 2,16,000 to Ved Prakash:- Disciplinary Action against Sh Veena Rani, Pension Clerk and Sh Surjeet Singh, Accountant (Retired) was recommended

vii) Regarding Excess payment of RS 50000 to Gore Lal, Mali :- Disciplinary Action against Sh Veena Rani, Pension Clerk and Sh Narinder Kumar, Accountant (Retired)was recommended.

viii) Regarding financial loss of 26,235 Rs due to payment to Sh Raj Kumar Munjal :- It was stated that as per the report of Regional Deputy Director financial loss to the tune of Rs 26,235 has been caused to the Municipal Council and disciplinary action was recommended Sh Bhushan Singh Rana, Executive Officer, Sh Adarsh Dhawan, Accountant.

ix) Temporary Advance to Ashok Kumar, Leading Fireman :- As per the recommendation of Regional Deputy Director, Ferozpur reccomemdation was made to the Executive Officer, Municipal Council, in *such cases record be traced and in case the record is untraceable then FIR be got registered."*

6. In furtherance to the above said directions, the Department issued chargesheet against the delinquent officers/officials for major penalty under rule 8 of the Punjab Civil Service (Punishment and Appeal) Rules, 1970 on 17.10.2018. The details of the action taken by the department has been set out in the said affidavit and the same is extracted as under:-

> *a. In regard to Complaint no. 65/14, the answering Respondent issued chargesheets Jaspal Singh (Clerk), Rohtash Garg (Assistant Municipal Engineer), and Bhushan Kumar (Executive Officer) for causing financial loss to Municipal Committee for returning back a cheque of 26 lacs which had bounced.*
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> *b. Veena Rani (pension Clerk), Surjit Singh (Auditor), Narinder Singh (Auditor) and Reeta Rani (Clerk) were also chargesheeted for Major penalty for negligence in duty to release extra amount to some employees at the time of their retirement.*
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> *c. Sh. Amarjit Singh (Additional District and Session Judge) (retired) was appointed as Enquiry Officer who conducted enquiry as provided under the provisions of the The Punjab Civil Service (Punishment and Appeal) Rules 1970 and submitted Enquiry Report/findings on 28.04.2021.*
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> *d. The Enquiry officer after examining the evidences and statements of the concerned persons proved charges against Sh Bhushan Singh Rana, Executive Officer (Retd), Sh Adarshjit Pal Singh, Accountant (Retired), Sh Raj Kumar, Sh Rohtash Garg, Municipal Engineer and Smt. Veena Rani and Smt. Reeta Rani, Accounts Clerk. In addition to that the charges against Sh Surjit Singh, Accountant (Retd)*

and Sh Narinder Kumar, Accountant (now Executive Officer) could not be proved. As Sh Jaspal Singh had died, so, proceedings against him were abandoned.

e. *The answering respondent gave the concerned delinquents an opportunity to be heard on 18.11.2021 and 06.12.2021, keeping in view the request made by the concerned and after examining the facts/records, the following findings were submitted to the competent authority:-*

Sr. No.	*Name and Post*	*Comment*
1.	*Mr. Bhushan Singh Rana, EO (now retired)*	*Payment of excessive interest amount of Rs.26235/- to Mr. Raj Kumar, Inspector (Retd.) on 11.7.2014 and No Due Certificate issued to Mr. Ashok Kumar, Leading Fireman. Due to this, the allegations made by the Enquiry officer against this officer are correct.*
2.	*Mr. Bhushan Kumar Aggarwal, EO (now retired)*	*Ms Mehndi Trader Pvt Ltd. Abohar had deposited in the Municipal Council of Rs 26 lakh, and the allegation of returning the check without adopting the verification/procedure is correct. Because of this, the charges levelled by the Enquiry officer against this officer are correct.*
3.	*Sh. Rohtash Garg, M.E.*	*M/s. Mehndi Traders Pvt Ltd. Abohar had deposited in the Municipal Council of Rs 26 lakh, the allegation of returning the check without adopting the verification/procedure is correct. Because of this, the charges levelled by the Enquiry officer against this officer are correct.*
4.	*Mr. Adarsh Kumar Khakar, (now retired)*	*All the charges against this employee were proved by the enquiry officer, but this*

		employee during hearing stated:- *1) Mr. Raj Kumar requested on 23.6.2014 that his loan amount was deducted on 12.12.2012, but this amount was paid to the bank on 04.03.2013. But the amount of interest accrued from 12.12.2012 to 03.03.2013 was deducted from his gratuity, and the interest of which was not to be paid by Mr. Raj Kumar.* *2) Therefore, as per the report made by Mr. Adarsh Kumar Accountant and Mr. Bhushan Singh Rana Executive Officer, the amount deducted from Mr. Raj Kumar's gratuity was paid to the concerned through Voucher No. 23 dated 14.07.2014 after audit.*
5.	*Smt. Rita Rani, Clerk*	*Rs. 34,157/- was due to Mr. Ashok Kumar, Leading Fireman at the time of retirement on 31.05.2013 from which Rs. 3500/- rupees was adjusted with Mr. Raj Kumar Clerk and Rs. 3500/- was adjusted with Mr. Ashok Kumar Leading Fireman as LTC advanced as per administrative order dated 04.02.1992. Remaining house loan and interest payment amount Rs.27157/- till 31.5.2013 has been deposited in the fund of Municipal Council upto 31.10.2018. Apart from this, an interest payment of Rs.1733/- for the period 01.06.2013 to 31.10.2018 has been deposited in the account of Municipal Council, Abohar on 13.7.2021. In this way, there was no financial loss to Municipal Council Abohar.*
6.	*Veena Rani Clerk (now retired)*	*This employee paid an excessive payment of Rs. 2.16 lakh rupees to Mr. Ved Prakash*

		Junior Assistant at the time of retirement and an excessive payment of Rs. 50 thousand rupees to Gora Lal Mali at the time of retirement. The allegations against this employee proved by the Enquiry Officer are correct.

7. Thereafter, the competent authority, vide its order dated 05.01.2022 imposed punishment on the delinquent employees under Rule 8 of the Punjab Civil Service (Punishment and Appeal) Rules, 1970 and Rule 2.2 of the Punjab Civil Service Rules Vol. 1 Part 2. The disciplinary action/decision taken by the competent authority against the delinquent employees is extracted as under:-

> *"1. "5% cut in the pension of Mr. Bhushan Singh Rana, Executive officer (Retired.) for 2 years.*
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> *2. A 10% deduction is made in the pension of Mr. Bhushan Kumar Aggarwal, Executive officer (Retired.) for 2 years.*
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> *3. Two annual promotions of Mr.Rohtash Garg, Municipal Engineer were stopped with cumulative effect.*
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> *4. The list of charges against Mr. Adesh Kumar, Accountant (Retired.) were dropped.*
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> *5. Charge sheet issued against Rita rai clerk was dropped.*
>
> *6. 5% cut in the pension of Mrs Veena Rai, Pension clerk (Retired.) for 2 years.*

8. It is further informed that the report was also sought from the Commissioner, Municipal Corporation, Abohar on 25.11.2021 as regards returning of the Cheque of Rs. 26 lakhs and a report was received that the requisite fee as per the government instructions had already been submitted, so the check was returned as per the report. It is further reported by the

Commissioner, Municipal Corporation, Abohar that as per notification dated 07.02.2011, a total amount of Rs. 90.69 lakh was to be deposited by developer i.e. M/s Mehendi Traders and the same was deposited. Further, as regards the amount assessed from M/s Mehendi Max Pvt. Ltd., the instructions have been withdrawn and that the issue survived only with respect to the way in which the cheque was returned. It is also informed that the appeal filed by the erring officials against the disciplinary action taken was dismissed by the competent authority by passing a speaking order dated 23.12.2022. It is stated in Para No.12 of the abovesaid affidavit that the financial losses have been recovered or are under the process of the recovery as under:

> *I. Mr. Ashok Kumar has deposited to the Municipal Council an amount of Rs.27,157/- as due against him.*
>
> *11. After scrutinizing the records, it came to the notice of the Municipal Council, Abohar that Mr. Ved Prakash, Junior Assistant has received an overpayment of Rs.2,16,000/. The Municipal Corporation, Abohar had already taken action for recovery of the same.*
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> *III. Deputy Director, Local Government, Ferozepur vide his letter no. DDSS/PAN-14/14916 dated 20-10-2014 has written to Mr. Gora Lal Mali to deposit the excess payment of Rs.50000/- and said that in case of non-deposit, this amount will be deducted from the monthly pension. Rs.23,706/- out of Rs. 50,000/- has been recovered from Mr. Gora Lal Mali till 2016. Mr. Gora Lal Mali has died and it is under consideration regarding recovery the remaining amount of Rs.26,294/- is under process. Recovery of Rs. 1,07,033/- remains pending."*

9. Subsequent directions were also issued for ensuring effective recoveries from the concerned officials. Details have also been mentioned with respect to the action taken by the Vigilance Department in other complaints viz. complaint No. 39 of 2015 as well. It was thus submitted that suitable action on the complaint submitted by the petitioner and the matters have been duly enquired by the Chief Vigilance Officer of the Department and departmental action had been taken and punishments imposed upon the delinquent officials. Action for recoveries has also been taken by the respondents Muncipal Corporation, Abohar for all the losses.

10. Even though the abovesaid additional affidavit was filed on 27.07.2023 and copy had been furnished to the counsel for the petitioner, no replication or rejoinder controverting the said facts has been filed by the petitioner. Hence, the averments as regards the action taken by the respondent-authority remains uncontroverted. I find that the grievance espoused by the petitioner as regards the initiation of action against the erring/defaulting officials has been sufficiently redressed and orders have been passed by the disciplinary authorities. The said orders are not a subject matter of challenge before this Court. Hence, the question of sufficiency of the punishment imposed cannot be examined.

11. Noticing the above, the present writ petition is disposed of as having been rendered infructuous at this stage, the petitioner, however, will be at liberty to take recourse to his alternative remedies in accordance with law, if so advised, against the punishment so imposed by the competent authority.

(VINOD S. BHARDWAJ)

MAY 02, 2024 **JUDGE**

Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No