

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1338 of 2023 (O&M)

Date of Decision: 27.02.2024

Rajinder Parshad

.....Appellant

versus

State of Haryana

.....Respondent

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

Present : Mr. Puneet Kakkar, Advocate, for the appellant.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

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

Consideration of the present appeal is to the dismissal of the writ petition of the appellant-petitioner by the learned Single Judge dated 07.08.2023 in Civil Writ Petition No. 14586 of 2012 upholding the order of termination passed by the respondent-authorities. Learned Single Judge had noticed in the impugned judgment that along with the show cause notice dated 06.06.2011, the enquiry report 12.09.2017 had been furnished to the appellant as per the dispatch register and therefore, the argument that the enquiry report had not been supplied to him was rejected. It was further noticed that the Enquiry Officer had considered all the objections raised by the appellant qua the allegations made and the Writ Court was not to look into the allegations and the proving of the same as it did not have any jurisdiction to evaluate the evidence and record a finding other than the one recorded by the Enquiry Officer unless the case was of no evidence.

2. The last argument raised by the appellant before the learned Single Judge was that the order of the Punishing Authority was cryptic and therefore, the termination order was liable to be set aside. It was noticed by the learned Single Judge that it is a settled principle of law that where the allegation has been proved against a delinquent by the Enquiry Officer and the said enquiry report has been accepted by the Punishing Authority, the detailed order need not be passed. Reliance was placed upon the judgment of the Apex Court passed in Civil Appeal No. 4394 of 2010 ***Boloram Bordoloi vs. Lakhimi Gaolia Bank and other*** dated 08.02.2021.

3. Learned State counsel has rightly relied upon a judgment of the Apex Court in ***Union of India and others vs. Subrata Nath 2022(16) Scale 828*** to contend that dismissal in departmental enquiry is not liable to be interfered until such findings are patently perverse or grossly incompatible with the evidence on record. The relevant part reads as under:-

“22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in [P. Gunasekaran](#) (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called

upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.”

4. Reliance was also placed upon another judgment of the Apex Court in ***B.C.Chaturvedi vs. Union of India and others 1996(1) SCT 617***, wherein it was held that the Court can interfere only if punishment was found shockingly disproportionate and to do complete justice.

5. A perusal of the paper book would go on to show that the allegations as such were of partitioning of the *shamlat* land. Even in the reply furnished by the appellant, the plea as such was taken that the earlier proceedings were done by his predecessor and he had not decided the partition of the *shamlat* land intentionally or in connivance or wrongly and everything was done as per the rules. In such circumstances, the enquiry report had come against him that the partition of the *shamlat* land was done without hearing the Gram Panchayat after only hearing the persons in whose favour the land was transferred. The termination order dated 18.07.2012 as such was thus passed on the ground that the land falls under the definition of 2 (g) of the Punjab Village Common Lands (Regulation) Act, 1961, while placing reliance upon the judgment passed by the Apex Court in ***Gram Panchayat of village Jamalpur vs. Malwinder Singh 1985 PLJ 463***. A finding was recorded that the officer had acted against the public interest, due to which the services of the appellant were terminated which was confirmed by the Haryana Public Service Commission on 28.05.2012.

6. In such circumstances, we do not find any perversity or infirmity in the order passed by the learned Single Judge upholding the order of termination of the appellant in view of the fact that there is nothing on the

record to show that departmental proceedings suffers from any infirmity which would warrant interference in the writ proceedings. Resultantly, finding no merit, the present appeal is dismissed. Pending applications, if any, stand disposed of.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

27.02.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No