

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CWP-32775-2019
Date of Decision: 13.02.2024

Malkiat Singh

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Rajesh Khandelwal, Advocate for the petitioner

Mr. Rohit Arya, DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petitioner has invoked extra ordinary jurisdiction of this Court challenging the order of disciplinary authority awarding punishment of stoppage of two increments with cumulative effect.

2. Facts of the case in brief are, the petitioner was working with the respondent Department for the last twenty-four years, and had been posted as Middle Head, Elementary School Head Master, Government Middle School, Village Kuleri, District Hisar. His wife, Naresh Rani, was also posted in the same school. During her posting, she made a complaint to the Principal Secretary, Education Department, against respondent no.4/Principal of the School for misbehaviour and misappropriation of funds, etc.

2.1. An inquiry was conducted against the fourth respondent. During inquiry, he levelled allegations against the petitioner and his wife. It is alleged that on that account the petitioner was issued a charge-sheet dated 01.02.2016, Annexure P-2, for the following irregularities:

That, Sh. Malkiat Singh is working since 22 years and his wife is working since 11 years in said school that both keep fighting daily with staff and principal of the school. Employees are annoyed with his behaviour. Apart from this they call anti-social element and disturb the govt. work and the school work. Due to this teachers have got their transfer to other schools and the number of students have severely declined. Threaten the said principal to implicate in the false and serious allegations.

Therefore, by committing abovesaid irregularities he has violated rule 3(i)(ii)(iii) of Haryana Service Rules, 1966 and made himself to go through strict disciplinary action.

2.2. The petitioner submitted his response and denied the allegations. Dissatisfied, the disciplinary authority ordered a regular inquiry. The enquiry officer submitted his report dated 14.12.2016, Annexure R-1, concluding as under:

From the discussion of the above facts I have reached to the conclusion that Sh. Malkiat Singh C.O. has leveled with wild and false allegation in order to save himself. The submissions made by Sh. Malkiat Singh in his defense can hardly be acceptable. I agree with the version of the prosecution. Hence the charges leveled against him are proved. The report is submitted for further necessary action.

2.3. Considering the same, the punishing authority passed the impugned order dated 27.06.2017, Annexure P-12, awarding the punishment of stoppage of two increments with cumulative effect. Operative part of the order reads as under:

During the personal hearing on 27.03.2017 Sh. Malkiat Singh (18336) ESHM stated that he had always performed his duty diligently and obediently. After considering all the facts on file and act and conduct of indiscipline and taking its own decision. I am of considered view that Sh. Malkiat Singh (18336) ESHM has acted negligently, therefore deserved to be punished. I award punishment of stoppage of two increments with cumulative effect.

I order accordingly.

2.4. The petitioner challenged the punishment order by filing an appeal before the appellate authority which was also dismissed vide impugned order dated 03.11.2017, Annexure P-15, by observing as under:

Considering the contents of appeal, the appellant has been granted opportunity of personal hearing on 03.11.2017 with liberty to put forth all documents in his defence. The appellant appeared in person and admitted the contents of compromise.

Considering above said facts and circumstances of the appeal, I being Appellate Authority, is of considered view that the appellant is not innocent. I also found that the Disciplinary Authority has taken a lenient view while awarding punishment on such a person who must have a man of high moral. I found no justification to interfere in the order of Disciplinary Authority. Hence, the appeal deserves to be rejected being devoid of merits.

I pass order accordingly.

2.5. Thereafter, the petitioner filed a second appeal before the government, which was dismissed by the Principal Secretary, Secondary Education vide order dated 03.09.2019, Annexure P-18, being not maintainable since the appellate authority had not enhanced the punishment awarded.

2.6. In these circumstances, the instant petition was filed.

3. Learned counsel for the petitioner has contended that the impugned charge-sheet is vague and based on false grounds. There is no specific allegation against the petitioner, and the charges as such do not constitute any misconduct under the Service Rules. The disciplinary as well as the appellate authorities have not applied mind to the facts of the case, and the impugned orders are not reasoned.

4. Learned State counsel has read entire inquiry report, dated 14.12.2016, to contend that it is based on correct appreciation of facts and statements of witnesses. The conclusion arrived at is also well reasoned. Based upon that the impugned orders have been passed which are in accordance with law. It is also contended that once the punishment order has been passed following due procedure, the same cannot be interfered with by this Court.

5. Heard.

6. A perusal of the irregularities alleged against the petitioner in the charge-sheet, dated 01.02.2016, shows that the same are vague and general in nature. Also, statement of allegations was not served with it. No specific misconduct has been attributed. It has been alleged that both, the petitioner as well as his wife, would keep fighting with staff and Principal of the School daily. No particular incident has been referred to; neither names of the staff members have been disclosed, nor has the cause of such fights been mentioned. The charge-sheet further alleges that the employees are annoyed with his behavior but none of the employees who is annoyed has been mentioned. It is also alleged that they (the petitioner and his wife) would call

anti-social elements and disturb the School work. There is no mention of any anti-social element or the nature of disturbance caused by such an element in the School work. Still further, it is alleged that due to this, teachers got themselves transferred to other schools and the number of students also severely declined, without mentioning as to who amongst the teachers got themselves transferred, to which of the schools, and what was the number of school students and how did it decline. Lastly, the allegation is regarding threats extended to the Principal to implicate him in 'false and serious allegation'; the charge is difficult to comprehend, besides there is no mention as to who extended this threat and at what time. Such vague charges cannot be established, nor can an enquiry be held to establish the same.

7. As per the settled law, a charge-sheet has to be specific and definite description of allegations against the delinquent must be mentioned therein or delineated in the accompanying statement of allegations. In the instant case, the charges were vague, without any specific description, and the charge-sheet was not accompanied with the statement of allegations. It accordingly becomes unsustainable as per law laid down by the Supreme Court in *Anant R. Kulkarni v. Y.P. Education Society and others*, (2013) 6 SCC 515. The relevant paragraphs of the judgment read as under:

16. ... Thus, nowhere should a delinquent be served a charge-sheet, without providing to him, a clear, specific and definite description of the charge against him. When statement of allegations are not served with the charge-sheet, the enquiry stands vitiated, as having been conducted in violation of the principles of natural justice. The evidence adduced should not be

perfunctory; even if the delinquent does not take the defence of, or make a protest that the charges are vague, that does not save the enquiry from being vitiated, for the reason that there must be fair play in action, particularly in respect of an order involving adverse or penal consequences. What is required to be examined is whether the delinquent knew the nature of accusation. The charges should be specific, definite and giving details of the incident which formed the basis of *charges* and no *enquiry* can be sustained on vague charges. (Vide *State of A.P. and others v. S. Sree Rama Rao* [AIR 1963 SC 1723], *Sawai Singh v. State of Rajasthan* [(1986) 3 SCC 454], *U.P. SRTC and others v. Ram Chandra Yadav* [(2000) 9 SCC 327], *Union of India and others v. Gyan Chand Chattar* [(2009) 12 SCC 78] and *Anil Gilurker v. Bilaspur Raipur Kshetriya Gramin Bank and another* [(2011) 14 SCC 379].)

8. The punishing authority has not referred to any document or material on record, nor has given any reasoning as to how the petitioner acted negligently which could be termed misconduct under the Rules, and deserved to be punished. Similarly, the appellate authority has also not assigned any reason for not interfering with the order of punishment, nor has it considered relevant facts and circumstances of the case. Both the impugned orders are non-speaking and have been passed in violation of the Principles of Natural Justice. A *quasi judicial* authority is required to record reasons before arriving at a conclusion, which has not been done in the instant case.

9. Accordingly, the petition is allowed, the charge-sheet dated 01.02.2016 and all consequential proceedings, including the punishment order dated 27.06.2017 and the order in appeal dated 03.11.2017, are set aside. The respondents are directed to release the increments, which were stopped with cumulative effect, to the petitioner from the due date with all consequential benefits, within four weeks from receiving a certified copy of the order.

(TRIBHUVAN DAHIYA)
JUDGE

13.02.2024
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>