

2024.PHHC.137731



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

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CWP-28258-2024
Date of Decision: 21.10.2024

BHARAT JOON

... Petitioner

VERSUS

THE LOKAYUKTA, HARYANA AND ANOTHER

... Respondents

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

Present: Mr. M.S. Rana, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order/report dated 23.02.2024 passed by the learned Lokayukta, Haryana, whereby the complaint No.363 of 2020 filed by the petitioner has been closed.

Learned counsel appearing on behalf of the petitioner vehemently argues that complaint dated 17.12.2020 was submitted by him before the learned Lokayukta, Haryana against certain officials namely Rameshwar Dass, ESI No.58/Kurukshetra; Narender Kumar, HC No.227/Kaithal; Narender Kumar, HC No.11/Panchkula and Anil Kumar, Constable No.641/Yamuna Nagar, then posted in State Vigilance Bureau, Panchkula for taking action against the said officials for making wrong entries in the Daily Diary Register as per Rule 22.50 of the Punjab Police Rules, 1934. It was alleged in the complaint that the said officials, in violation of the Rules, made wrong entries in Daily Diary Register regarding the time of leaving the Police Station Panchkula and reaching the Police Station Yamuna Nagar and coming back. He contends that in doing so, the respondent officials, who were



members of a raiding party in a case registered against the petitioner under the Prevention of Corruption Act, have abused their position and thus extending an undue favour in favour of the complainant, who had filed a complaint against the petitioner herein. It is submitted by the petitioner that the officials had mentioned about the time of departure as 11.15 a.m. from Panchkula to Yamuna Nagar on 25.09.2018 and that as per the entry No.4, they reached Yamuna Nagar at 11.35 a.m., i.e. within a period of 20 minutes by covering a distance of nearly 100 kilometers.

He vehemently argues that as per Rule 22.50 of the Punjab Police Rules, 1934, "every police officer, who enters or causes to be entered in the Daily Diary a report knows, or has reason to believe, to be untrue, whether he has or has not been directed to make such entry by his superior officer, shall ordinarily be dismissed from service."

It is thus contended that by making a wrong entry in the Daily Diary Register, the respondent officials abused their official position to the detriment of the petitioner and that proceeding for dismissal of such officers/officials from service ought to be initiated by the respondent-Department. A complaint was accordingly submitted by him before the learned Lokayukta, Haryana espousing the aforesaid grievance.

On receipt of the complaint, the same was forwarded to the Director, State Vigilance Bureau, Haryana vide order dated 24.12.2020 for conducting inquiry and submitting report. The Director, State Vigilance Bureau, Haryana, vide letter dated 03.02.2021, submitted a report (Mark-A). The same was supplied to the petitioner herein for filing his objections, which were filed on 04.03.2021 (Mark-B).

On consideration of the inquiry report, the objections filed by the petitioner as well



as the other material, which was examined by the Registrar and the learned Lokayukta, Haryana, who also conducted a preliminary inquiry and had submitted his preliminary inquiry report dated 22.01.2024, it was observed that the wrong timing in the DDR entry was made by mistake and instead of writing 01.35 p.m., they mentioned it as 11.35 a.m. and that there was no malafide intention on the part of the said police officials in making such entry.

The operative part of the report submitted by the Registrar and relied upon by the learned Lokayukta, Haryana is extracted as under:

“1. The present complaint has been filed by Sh. Bharat Joon S/o Sh. Jaipal Singh, resident of Village Gaddi Kheri, District Rohtak, complainant, against Sh. Rameshwar Dass, the then ESI, Sh. Narender Kumar, the then Head Constable, No.227/Kaithal, Sh. Narender Kumar, Head Constable, No.11/Panchkula and Sh. Anil Kumar, Constable, then posted in State Vigilance Bureau, Panchkula, respondents.

2. The complainant in his complaint has alleged that the respondents in violation of the rules made wrong entries in the Daily Diary Report (DDR) in Police Station State Vigilance Bureau, Sector-17, Panchkula regarding the time of leaving the Police Station reaching at Yamuna Nagar and coming back to the Police Station as members of raiding party in a case against him under the Prevention of Corruption Act. He has also alleged that the respondents kept the DDR entries vacant and made false entries on 25.09.2018 showing the departure at 11:15 am from Panchkula to Yamuna Nagar, and that on 25.09.2018 as per entry No.4, the respondents reached at 11:35 a.m. at Yamuna Nagar, which shows that they reached from Panchkula to Yamuna Nagar within 20 minutes by covering distance of 100 Kms., despite traffic lights and crowd on the said route and as such the entry made by them is false. He has further alleged that the entries in the Daily



Dairy made by the respondents regarding the departure and arrival are manipulated and wrong and for making such a false entry, the respondents are liable to be dismissed from the service but despite making several complaints, no action has been taken against the respondents.

3. *The complaint of the complainant was forwarded to the Director, State Vigilance Bureau," Haryana, Panchkula for report vide order dated 24.12.2020. Director General, State Vigilance Bureau, Haryana vide letter dated 03.02.2021 submitted the Report (Mark A). Complainant filed his Objections (Mark B) dated 04.03.2021 Deputy Superintendent of Police, State Vigilance Bureau, Haryana, Panchkula vide letter dated 09.02.2022 submitted the Para-wise Reply (Mark C). Complainant filed his Written Submissions (Mark D) dated 16.03.2022. Deputy Superintendent of Police, Police Station State Vigilance Bureau, Panchkula submitted the Response (Mark E) vide letter dated 27.09.2022.*

4. *After going through the allegations of the complainant made in the complaint and on perusal of the Report (Mark A), Objections (Mark B), Para-wise Reply (Mark C), Written Submissions (Mark D) and Response (Mark E), it is amply clear that the complainant has alleged that in a criminal case registered against him under the Prevention of Corruption Act, the respondent- Police officials manipulated the wrong entries in the DDR in order to harm him by showing their departure at 11:15 a.m. from Panchkula and arrival at Yamuna Nagar at 11:35 a.m. and as such showing travelling 100 Kms. on a crowded road with traffic lights within 20 minutes but no action has been taken against them despite such false entry in the DDR, while for such a false entry, they are liable to be dismissed from service. In the Report (Mark A), it is reported that as per the statements of the respondents and other witnesses entry No.4 in the DDR showing the arrival of Sub-Inspector Sh. Rameshwar Dass at 11:35 am. at sub-station of Station Vigilance Bureau, Yamuna Nagar was wrong but the same was made due to*



inadvertent mistake as in place of 1:35 a.m., the time was wrongly written as 11:35 am. and for said mistake, he has been warned to be careful in future. It is also reported that the criminal case registered against the complainant was pending before the Court and the complainant had made complaints to several authorities seeking to influence the findings of his trial with oblique motive.

5. *In his Objections (Mark B), complainant has alleged that despite finding the official guilty of making a wrong entry, no action has been initiated against him under the Punjab Police Rules, which require dismissal of the delinquent official for making a false entry. In the Para-wise Reply (Mark C), allegations of the complainant have been refuted and findings of the report have been reiterated. It is stated that the delinquent official has already been ordered to be careful in future and a recorded warning had been issued to him vide order dated 21.01.2021 by the Superintendent of Police, State Vigilance Bureau, Haryana, Panchkula. It is also stated that the complainant is making such complaints, time and again before different authorities to take benefit in the pending trial in FIR No.5 dated 25.09.2018 under Section 7 and 13 of the Prevention of Corruption Act, 1988 registered in Police Station State Vigilance Bureau, Panchkula. Complainant in his Written Submissions (Mark D) has contended that as per Rule 22.50 of the Punjab Police Rules, 1934, a Police Officer who enters or causes to be entered in the Daily Diary, a report, he knows or has reason to believe to be untrue is liable to be dismissed from service. In the Response (Mark E), it is stated that the delinquent official has already been punished by issuing a warning to be careful in future and the complainant has been convicted in FIR No.5 dated 25.09.2018 under the Prevention of Corruption Act vide judgment dated 20.09.2022 by the Court of Additional District and Sessions Judge, Yamuna Nagar*

6. *It is clearly evident from the Report (Mark A) that the respondents were the members of the leading party in FIR No.5 dated 25.09.2018 under Section 7 and 13 of the Prevention of Corruption Act,*



1988 registered in Police Station State Vigilance Bureau, Panchkula, wherein the accused was caught red-handed, while accepting the bribe of Rs.10,000/-. It is also clear that during the enquiry, the allegation of the complainant that the entry made in the DDR No.4 dated 25.09.2018 regarding arrival of the Police official at 11:35 a.m. was found to be wrang and the delinquent official Assistant Sub-Inspector Sh. Rameshwar Dass was issued the warning to be careful in future. It is further clear that the Inquiry Officer concluded that the wrong entry made in the DDR was due to inadvertent mistake as the time was recorded 11:35 a.m. wrongly instead of 1:35 a.m.

7. The contention of the complainant is that under Rule 22.50 of the Punjab Police Rules, 1934, the punishment for making false entry in DDR is dismissal from service, while the delinquent official has been let off by issuing a mere warning to be careful in future. Undoubtedly, Rule 22.50 of the Punjab Police Rules, 1934 provides that any Police Officer, who enters or causes to be entered in the Daily Dairy Report, a report, he knows, or has reasons to believe, to be untrue, whether he has or has not been directed to make such entry by a superior official, shall ordinarily be dismissed from service. However, in the present case, the Inquiry Officer has concluded that the wrong entry made in the DDR was due to inadvertent mistake as the time was recorded 11:35 a.m. in place of 1:35 a.m. by the delinquent official. Once the competent authority has exercised its discretion to impose the punishment on an official after taking into consideration, the inquiry report and the other circumstances, the same cannot be called into question merely on the ground that the punishment is inadequate or not commensurate to the delinquency of the said official. Moreover, Rule 22.50 of the Punjab Police Rules, 1934 itself confers such discretion upon the competent punishing authority by providing that the punishment ordinarily be dismissal from service, which means that in certain circumstances, to be considered by the punishing authority, the punishment may be other than dismissal from service. Thus, prima facie, there exists no



reasonable ground for conducting further enquiry or investigation in this matter by this institution.”

Learned counsel for the petitioner contends that he had been falsely arrested by the said officer in a false case. As a false case has been registered against the petitioner, the said evidence was essential to establish his innocence.

I have heard the learned counsel for the petitioner and have gone through the documents and record available on case file with his able assistance.

The Lokayukta Act does not empower the Lokayukta to direct investigation of any/every action or to direct recommendation of initiation of action against an officer merely on account of certain omissions or breach of departmental instructions. There must be allegations with respect to deployment of corrupt motives or gross abuse of authority. Merely because there are certain lapses/errors or inadvertent omissions committed by the police officials would not *ipso facto* entail presumption of corruption or abuse of authority. Since the authority and jurisdiction of learned Lokayukta, Haryana to make recommendations is limited to the matters of corruption and abuse of authority, the complaint as well as the evidence brought before the learned Lokayukta, Haryana needs to establish the same. The evidence adduced by the parties before the Lokayukta or before this Court do not support that the respondent officials had indulged in any corrupt practices or had abused their power to the detriment of the rights of the petitioner. An inadvertent omission/error cannot be presumed in law to be an abuse of power or authority. The report of the error being unintentional has already been furnished by the Authorities.

I do not find that the order passed by the learned Lokayukta, Haryana declining to make recommendation on the complaint filed by the petitioners suffers



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from any illegality, perversity, impropriety or non-appreciation of evidence available on record.

The instant petition is accordingly dismissed in *limine*.

21.10.2024.

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**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*