



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

105

CWP-24495-2024 (O&M)

Date of decision: 14.05.2025

Suman Rao

...Petitioner

VERSUS

The State of Haryana and another

...Respondents

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

Present:- Mr. Nitin Verma, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 09.12.2002 passed by respondent No.2, viz. The Director, Public Relations Department, Haryana, compulsorily retiring the husband of the petitioner as well as to the order dated 10.12.2004 whereby penalty of 1% permanent cut on the pension and recovery of Rs. 1,28,725/- had been imposed upon him and the period of suspension from 30.03.1988 to 24.03.2003 was restricted to the payment of subsistence allowance only and was to be treated as non-duty period for pension, leave, increments etc.

2. Learned counsel appearing on behalf of the petitioner has vehemently argued that late Jagdish Lal- the petitioner's husband, joined the services of the respondent-Department w.e.f. 23.11.1966 as a Clerk, and he continued to serve the respondent Department. However, in the year 1988, the husband of the petitioner was falsely implicated in a criminal case bearing FIR No.398 dated 14.10.1988 registered under Sections 409, 467,



468, 471, 477-A of the Indian Penal Code, 1860 at Police Station Central. The FIR pertained to the submission of 24 bogus vouchers with forged signatures amounting to Rs. 14,300/- in March 1988, which had not been drawn from the Treasury.

3. He contends that the husband of the petitioner was also placed under suspension vide order dated 30.03.1988 and inquiry proceedings were initiated against the husband of the petitioner to look into the allegations of embezzlement. An inquiry officer was appointed on 12.03.1999.

4. He contends that the department, however, failed to establish its allegations against the husband of the petitioner as a result whereof, he was acquitted by the learned trial Court vide judgment dated 10.12.2002.

5. Suspecting the acquittal of the husband of the petitioner, the order of compulsory retirement on attaining the age of 55 years was passed by the respondent-Department after nearly 10 years of the registration of FIR. The authorities thereafter also changed the inquiry officer vide order dated 18.07.2003, and that too after the decision in the criminal case. An inquiry report was thereafter submitted on 26.05.2004 against the husband of the petitioner, proving the charges.

6. He contends that the husband of the petitioner was never associated in the said inquiry proceedings and was not given any chance to cross-examine the witnesses.

7. Notwithstanding the judgment of acquittal and violation of principles of natural justice, the departmental authorities imposed the



punishment mentioned above, vide order dated 10.12.2004.

8. The aforesaid order of imposition of the penalty was challenged by the husband of the petitioner in CWP-21977-2013. The said writ petition came up for final hearing on 04.12.2015 and was disposed of with a direction to the respondents to release the regular pension to the husband of the petitioner along with 9% interest. When the respondents failed to release the pensionary benefits to the husband of the petitioner, CWP-14477-2017 was filed for seeking directions to release all the pensionary benefits to the petitioner, in which reply was filed by the respondent-Department, placing on record the order dated 10.12.2004. He contends that the factum of passing of the said order came to the knowledge of the petitioner for the first time then. The said writ petition was thus disposed of, granting liberty to the husband of the petitioner to file a fresh writ petition challenging the said order.

9. Thereafter, CWP-5508-2020 was filed by the husband of the petitioner, challenging the order dated 10.12.2004 and seeking release of the entire pensionary benefits. The said writ petition was dismissed as withdrawn with liberty to avail the remedy to file a statutory appeal against the said order vide order dated 10.11.2020. Thereafter, an appeal dated 14.12.2020 was filed by the husband of the petitioner, which was also dismissed vide order dated 28.09.2023, leading to the filing of the instant writ petition.

10. He contends that the departmental authorities had taken action



against the husband of the petitioner without complying with the principles of natural justice and without conveying the impugned order. He thus contends that the order of compulsory retirement against the husband of the petitioner on account of registration of a criminal case alongwith the subsequent order imposing the penalty on the husband of the petitioner are bad and liable to be set aside since the contemporaneous evidence as well as the judgment of the Court had not been taken into consideration by the respondent-Department.

11. I have heard the learned counsel appearing on behalf of the petitioner and have gone through the documents available on record with their able assistance.

12. The picture which however emerges from the arguments and the sequence as stated by the learned counsel for the petitioner and the documents on record is that the husband of the petitioner was working in the Technical Section of the Public Relations Department, Haryana. He was entrusted with the work of maintenance of accounts for the supply of petrol, diesel and mobile oil, etc., purchased for the departmental vehicles and also to draw advance money for the said purpose. He was alleged to have withdrawn a sum of Rs. 1,28,725/- fraudulently by submitting 232 bogus paid vouchers with forged signatures of officers/officials concerned, and attempted to withdraw an amount of Rs. 14,300/- by submitting 24 paid vouchers with forged signatures. The said entries did not exist in the logbook of the concerned vehicles. Consequently, the FIR No. 398 dated 14.10.1988



was registered against the husband of the petitioner. A chargesheet under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 was also served upon the husband of the petitioner on 13.10.1998 on the following allegation:-

- “i) *Attempted to draw Rs. 14,300/- by submitting 24 bogus vouchers with forged signatures.*
- ii) *Fraudulent drawl of Rs. 1,28,725/- by submitting 232 bogus vouchers putting thereon forged signatures, the entries of which did not exist in the log books of concerned vehicles.”*

13. Owing to the charges in the criminal case as well as the departmental proceedings being identical, hence, the proceedings of the aforesaid charge-sheet were kept in abeyance till the final decision of the criminal case. In the meanwhile, however, the husband of the petitioner attained the age of 55 years and his matter was considered as per Rule 5.32A (c) of the Punjab Civil Services Rules Volume II and Rule 3.26(d) of the Punjab Civil Services Rules Volume I, Part I, as applicable to the State of Haryana and the order of compulsorily retiring the husband of the petitioner on attaining 55 years age was passed.

14. Even though it is not in dispute that the judgment of acquittal was passed by the learned Judicial Magistrate 1st Class (JMJC), Chandigarh, on 10.12.2002, however, no challenge was ever made to the order of compulsory retirement. The husband of the petitioner filed the 1st writ



petition, i.e. CWP-21977-2013, which was disposed of vide order dated 04.12.2015. The prayer made by the husband of the petitioner seemingly was to claim his pension after being compulsorily retired. The said fact is duly noticed in the opening line of the said order. It was noticed by the Court that, notwithstanding an order of compulsory retirement, the provisional pension order as well as the admissible pension had to be released. Thus, there was no challenge to the order of compulsory retirement dated 09.12.2002 in the above-mentioned writ petition, i.e. CWP-21977-2013. Further, CWP-14477-2017 was filed thereafter by the husband of the petitioner, wherein the punishment order dated 10.12.2004, i.e. imposing a penalty of 1% permanent cut on the pension of the husband of the petitioner, was a subject matter of challenge. While the writ petition was withdrawn, the husband of the petitioner only sought liberty to file a fresh petition to challenge the order dated 10.12.2004. Even in the said writ petition, there was no challenge to the order of compulsory retirement that had been passed against the husband of the petitioner in the year 2002.

15. The 3rd writ petition, i.e. CWP-5508-2020, was filed thereafter against the order dated 10.12.2004 imposing the punishment, which was withdrawn with liberty to avail the appellate remedy. Hence, at no point before the filing of the instant writ petition in the year 2024 did the husband of the petitioner challenge the order dated 09.12.2002, compulsorily retiring him from service. The prayer of the petitioner for setting aside the impugned order of compulsory retirement after a lapse of more than 02



decades is barred by delay and laches, and hence, is unworthy of consideration at this juncture.

16. As far as the prayer of the petitioner concerning the penalty imposed upon her husband vide order dated 10.12.2004, notwithstanding the judgment of acquittal having been passed by the JMIC, Chandigarh is concerned, the contention of the petitioner is solely that the contemporaneous evidence including the judgment of acquittal had not been taken into consideration and a fair opportunity to prove his defence had not been provided to the husband of the petitioner.

17. The inquiry report has been appended by the learned counsel for the petitioner with the instant writ petition as Annexure P-6. A perusal of the same shows that the husband of the petitioner had participated in the inquiry proceedings and that various admissions of her husband (late Jagdish Lal) had been recorded as a part of the inquiry proceedings, including his confessional statement given before Mr. M.L. Gupta, Incharge of Departmental Flying Squad on 13.05.1988. So much so that late Jagdish Lal, the husband of the petitioner, had not denied the allegations while getting his statement recorded on 04.09.2003, and he was also granted an opportunity to re-examine the witnesses as well. The detailed inquiry report submitted by the inquiry officer refers to various discrepancies that have been noticed before the conclusion was drawn. The same are extracted as under:-

“Conclusion:

- 1) *So far as charge is concerned to attempt to draw*



Rs.14,300/- by submitting 24 bogus vouchers, Mr. Jagdish Lal had himself twice admitted having done so. Earlier, he had admitted his fault before the then Flying Squad incharge, Mr. M.L. Gupta, who was posted as Joint Director, and offered apology with the assurance that such a mistake would not be repeated in future. Secondly, Jagdish Lal admitted his fault during the enquiry conducted by the undersigned. Hence, the charge against Mr. Jagdish Lal has been proved. Moreover, Mr. Jagdish Lal had tried to befool the office by putting his signatures as Jagdish Chander instead of Jagdish Lal.

- 2) Regarding the charge of fraudulent drawal of Rs.1,28,725/- by submitting 232 bogus vouchers by putting forged signatures, all the vouchers were checked thoroughly during the enquiry conducted by the undersigned. On the basis of documents and facts, all the evidence suggest that Mr. Jagdish Lal had put up bogus signatures to withdraw the amount. All the concerned drivers, TA (Auto) and AE have submitted that their signatures on the vouchers are forged. Mr. Jagdish Lal was given full opportunity to produce the evidence and witnesses in his defence, but he failed to produce any document or evidence in his favour to counter the charge*



of his having produced bogus vouchers. Thus on the basis of documents, evidence produced before the undersigned, the charge of fraudulent drawal of Rs.1,28,725/- stand proved.”

18. The departmental authority, before passing the impugned order also specifically took into consideration the representation dated 25.08.2004 submitted by the husband of the petitioner relying on the judgment of acquittal passed by the Court of JMIC, Chandigarh and specifically recorded that the acquittal in the trial Court was on account of the prosecution's failure to examine the handwriting expert. The operative part of the impugned order reads thus:

“3. In his representation dated 25.8.2004, Sh. Jagdish Lal has drawn the attention of the department to judgement dated 19.12.2002 pronounced by the court of Judicial Magistrate, 1st Class, Chandigarh in which he had been exonerated of both these charges. He was further contended that in view of his acquittal by the court of Judicial Magistrate, 1st Class, Chandigarh, the Inquiry Officer should not have relied upon the statements of the departmental witnesses recorded in the year, 1988. It has further been mentioned that the forced statements of Sarvshri Mahinder Singh, Sher Singh and Amar Nath should not have been relied upon by the Inquiry Officer without getting substantiated by the handwriting expert.



He has also mentioned that in view of his premature retirement issuance of show cause notice was not warranted and the same may be withdrawn. He has another grouse those adequate opportunities to cross examination the various witnesses were not given to him. In the end of his representation dated 25.8.2004, he prayed that he show cause notice may be withdrawn in view of his premature retirement.

4. *The contention of Sh. Jagdish Lal that in view of the acquittal by the Judicial Magistrate, 1st Class, Chandigarh in his judicial Magistrate, 1st Class, Chandigarh in his judgement dated 19.12.2004, the enquiry proceedings are wholly unjustified is not tenable as in the case titled as "Corporation City of Nagpur Vs Ram Chander and Others, 1981-2SLR-274 SC-(6)" the Hon'ble Supreme Court of India has laid down that the departments at liberty to initiate departmental proceedings if the Judicial Court lets off the petitioner on technical grounds. Sh. Jagdish Lal was let off by the Judicial Court on the grounds that the evidence of the handwriting expert was not got recorded to prove veracity of charges of forged signatures on the vouchers submitted by him... Another contention of Sh. Jagdish Lal "that the Inquiry Officer should not have relied upon the confessional statement, which was recorded under pressure." cannot be taken into*



consideration unless he is able to convincingly prove that so many officials who gave the testimony were under pressure. The contention of Sh. Jagdish Lal that in view of his clear acquittal the Inquiry Officer should not have relied upon the statement recorded in the year, 1988 is also not tenable as the Inquiry Officer has recorded fresh statements in the year, 2003. In his statement got recorded before the Inquiry Officer on 11.9.2003, Sh. Jagdish Lal had admitted that he had given statement on 13.5.1988 wherein he confessed that 22 vouchers submitted by him were wrong and he would not stake claim for its re-imburement and requested for forgiveness. In view of his clear confession that he had put up vouchers with forged signatures, there was not need to get the opinion of handwriting expert to authenticate that the signatures on the vouchers indeed were bogus. There is no evidence beyond self confession. So far as the plea taken Sh. Jagdish Lal that the issuance of show cause notice was not warranted in view of him premature retirement is concerned, it is made clear that he was compulsorily retired from Government service without prejudice to the decision that may be taken by the department on the charge-sheet already served upon him. Sh. Jagdish Lal was also heard in person by me.

5. *In view of the reasons given above, it is clear that*



Sh. Jagdish Lal has not been able to furnish convincing reply that the findings of the Inquiry Officer in regard to the allegations of attempt to draw Rs. 14,300/- by submitting forged vouchers and fraudulent drawal of Rs. 1, 28,725/- by submitting 232 bogus vouchers with forged signatures, are not based on facts. Thus, the representation dated 25.8.2004 submitted in response to show cause notice dated 9.8.2004 by Sh. Jagdish Lal is not satisfactory.

6. *In view of the facts and circumstances of the case and the plea taken by Sh. Jagdish Lal at the time of personal hearing that he has no source of income other than pension, the penalty of 1(one) percent permanent cut on his pension and the recovery of Rs. 1,28,725/- from him is hereby imposed upon him. His period of suspension from 30.3.1988 to 24.3.2003 is hereby restricted to the payment of subsistence allowance which he has already drawn during the period of suspension and it is not treated duty period for the purposes of pension, leave, increments etc.”.*

19. It is thus evident that in regular departmental inquiry, the charge against the husband of the petitioner was duly established and due procedure as prescribed in the Haryana Civil Services (Punishment and Appeal) Rules, 1987 was followed. The copy of the inquiry report was duly supplied, and all opportunity had been granted to the deceased husband of



the petitioner to prove his defence. Even the judgment of acquittal passed by the JMIC, Chandigarh was taken into consideration by the departmental authority and reasons were cited as to why, how and under what circumstances the said judgment would not be binding on the disciplinary authority. The order imposing a punishment of 1% permanent cut on the pension of the husband of the petitioner and the recovery of Rs.128,725/- from him, was thus passed.

20. The subsequent appeal was dismissed by the Appellate Authority after noticing a well-reasoned and speaking order passed by the competent authority.

21. The position in law is well settled that the High Court while exercising its jurisdiction under Article 226 of the Constitution of India does not sit as a Court of Appeal on the orders that have been passed by the departmental authorities and does not substitute its own opinion for that of the conclusions drawn by the competent authorities on the strength of the evidence adduced before them. There is nothing on record to show that the defence evidence or the documents that were sought to be relied upon by the husband of the petitioner had not been taken into consideration or that the conclusions so drawn by the competent authority were illogical and untenable in light of the evidence that existed on record.

22. It is also the well-settled position in law that a judgment of acquittal in a Criminal Court does not *ipso facto* amount to exoneration from the charges established in departmental proceedings. The position in law is



well settled that criminal proceedings require a higher degree of proof as compared to departmental proceedings, which operate on preponderance of probabilities instead of proving the charge beyond a reasonable doubt. Further, the judgment of acquittal has been passed on account of failure on the part of the prosecution to examine the handwriting expert as a result whereof the charge against the petitioner could not be proved in the criminal case, however, the same ipso facto does not mean that the departmental proceedings against the husband of the petitioner cannot culminate into imposition of any penalty against him.

23. Considering the matter from either of the perspectives, including the competence and the limited scope of judicial review available to the High Court in departmental proceedings under Article 226 of the Constitution of India, I find that the instant writ petition is not only highly belated but also lacks merit.

24. The instant writ petition is accordingly *dismissed in limine*.

(VINOD S. BHARDWAJ)
JUDGE

14.05.2025
Mangal Singh

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