HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
****
CWP-5694-2021 (O&M)
****

Ram Niwas ... Petitioner

VS.

State of Haryana ... Respondent

****

1.	**Judgment reserved on**	**24.04.2026**
2.	**Judgment pronounced on**	**21.05.2026**
3.	**Judgment uploaded on**	**22.05.2026**
4.	**Whether operative or full judgment**	**Full**
5.	**Delay in pronouncement of full judgment and reasons, if any**	**NA**

****

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL
****

Present: Mr. Vijay Kumar Jindal, Sr.Advocate with
Mr. Yashvardhan Goyal, Advocate for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana
****

Sandeep Moudgil, J.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, inter alia, for issuing a writ of certiorari quashing of the order dated 28.01.2021 (Annexure P1) and the dissenting note (Annexure P15) whereby respondent No.1 has awarded punishment of recovery from the gratuity/leave encashment and pensionary benefit of the petitioner. He also seeks a direction to the respondents to release his pensionary and reitral benefits along with interest in terms of the order dated 15.10.2020 passed by this Court in CWP-17202-2020 (Annexure P21).

(2). The core issue arising for consideration is whether the petitioner, while functioning as Naib Tehsildar (Sales), Ambala, acted in contravention of the statutory scheme and departmental procedure by processing and facilitating transfer of evacuee land in favour of the legal representatives of Shingara Singh despite existence of a final eviction order and a subsisting confirmed auction in favour of a third party purchaser, thereby causing financial loss to the State exchequer.

(3). The factual matrix is largely undisputed. The lease granted to Shingara Singh in the year 1968 was admittedly for a limited duration and was governed by specific conditions requiring lawful transfer after making the land cultivable. It is equally undisputed that after expiry of the lease period, no lawful renewal or regularization took place. More importantly, an eviction order dated 08.10.2003 came to be passed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (in short the 1972 Act) and the said order admittedly attained finality as no appeal or challenge thereto was ever laid. Being as such, the legal character of possession of Shingara Singh and thereafter his legal representatives ceased to remain lawful. Mere continuation in physical possession after passing of an eviction order could not confer any enforceable legal right upon them so as to claim benefit under Section 4(2)(b) of the Haryana Evacuee Properties (Management & Disposal) Act 2008 (Amended Act, 2010) (in short, the 2010 Act).

(4). In nutshell, the then Naib Tehsildar (Sales) Ambala – the petitioner, processed the application and transferred land measuring 68K-021 situated at village Raiwali to the applicants treating them as lessee of inferior land at a concessional rate of Rs. 2000/- per acre without cancelling the auction dated 30.10.2000 made in favour of Ram Dayal vide order dated 15.07.2011 whereas there was no lease deed on the record. These orders got approved on 23.07.2011 from the Deputy Commissioner-cum-Commissioner (Sales), Ambala by misleading him about the facts. After recovery of balance price of land, conveyance deed was also issued in their favour on 28.07.2011. After examination of the matter by the Department it was noticed that the petitioner being Tehsildar had committed a grave irregularity by passing order dated 15.07.2011 for transfer of land in question to the LRs of Shingara Singh and thereafter its confirmation dated 23.07.2011 without cancelling the confirmation of auction orders dated 18.10.2010.

(5). Consequently, the petitioner, was charge sheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 on 28.02.2019 (Annexure P5) for causing loss to the State exchequer to the tune of Rs. 76,44,225/- (after adjustment of already paid amount of Rs. 17,025/-). The petitioner gave reply dated 12.04.2019 and the enquiry officer submitted his report on 07.10.2019 exonerating the petitioner of the charges as no force was found in both the charges leveled against the petitioner. However, respondent No.1 did not accept the enquiry report and vide dissenting note (Annexure P16) on the ground that no appeal was filed against the order dated 08.10.2003 till date by the said Shingara Singh and the same stands on a legal footing and is valid till date. Consequently, vide impugned order dated 28.01.2021 (Annexure P1) recovery of amount of Rs.76,61,250/- was ordered from the pensionary benefits of the petitioner.

(6). Hence this writ petition.

Respondents' Contentions

(7). Learned counsel for the respondents pointed out that petitioner being Tehsildar (Sales), Ambala was mandatorily required to dispatch 'Warrant of Possession' to Patwari Halqa concerned for effecting actual dispossession and delivery to State and such proceedings were neither initiated nor executed, resulting in Shingara Singh's family continuing to hold 68 Kanal 2 Marla land merely on State's behalf as unauthorized occupants. It is further submitted that a binding duty was cast upon the petitioner vide departmental instructions to first procure/verify execution report from Kanungo/Accountant specifically qua the order dated 08.10.2003 prior to any disposal under Section 4(2)(b) of 2010 Act which was never done.

(8). It is then vehemently argued that the reports upon which the petitioner is harping is based on incomplete facts as it completely missed the key eviction order dated 08.10.2003 passed by the then SDO (Civil) under the 1972 Act and as such, the eviction order clearly ended Shingara Singh's lease rights and made the 68 Kanal 2 Marla land fully State property again, free for proper disposal like auction and that being so, the LRs of Shingara Singh had no legal right to claim continuous possession as lessees.

(9). Heard learned counsel for the parties and the judgment was kept reserved on 24.04.2026.

Analysis

(10). The defence sought to be raised by the petitioner that the transfer was effected on the basis of departmental advice dated 28.04.2011 and reports submitted by subordinate officials does not persuade this Court. A revenue officer exercising statutory powers is under an obligation to independently verify foundational facts before taking a decision involving transfer of valuable State property. The petitioner cannot seek shelter behind inter-departmental correspondence particularly when the advice itself appears to have been rendered without complete disclosure of material facts including the eviction order dated 08.10.2003 and the earlier confirmed auction dated 18.10.2010.

(11). Significantly, the record reveals that the auction conducted on 30.05.2000 had already culminated into confirmation in favour of Ram Dayal vide order dated 18.10.2010 before the petitioner processed the application of legal representatives of Shingara Singh on 20.02.2011. Therefore, before proceeding further, it was incumbent upon the petitioner to first ascertain the legal effect of the confirmed auction and to obtain appropriate orders regarding its cancellation, if permissible in law. However, no such exercise was undertaken.

(12). The petitioner has attempted to contend that the auction proceedings preceded his joining and therefore responsibility, if any, ought to fall upon officers who dealt with the matter earlier. This argument cannot be accepted. Once the petitioner assumed charge as Naib Tehsildar (Sales), the pending proceedings and files came within his official domain and it became his duty to examine the matter in accordance with law before passing any order.

(13). At the outset, it is observed that the scope of judicial review in disciplinary matters is limited. In ***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749***, the Supreme Court held that judicial review is confined to examination of decision-making process and not the decision itself. Similarly, in ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584***, it was reiterated that adequacy or sufficiency of evidence cannot be examined by the writ Court once there exists some evidence supporting the findings.

(14). In the present case, the petitioner was duly served with charge-sheet, participated in the enquiry proceedings, submitted his defence and was also supplied the dissenting note before passing of the final order. Thus, due compliance of principles of natural justice stands established.

(15). The argument that the disciplinary authority could not have differed from the findings of the Inquiry Officer is equally misconceived. It is trite that the disciplinary authority is the final fact-finding authority and is fully competent to disagree with the Inquiry Officer provided reasons are recorded. In ***Punjab National Bank v. Kunj Behari Misra, (1998) 7 SCC 84***, the Supreme Court held that disagreement with the inquiry report is permissible so long as the delinquent officer is put to notice and afforded opportunity of representation. The record in the present case clearly demonstrates compliance of the said requirement.

(16). Equally settled is the principle that negligence causing financial loss to the State can validly form basis for recovery from retiral benefits. In ***High Court of Punjab & Haryana v. Amrik Singh, (2014) 14 SCC 543***, the Supreme Court recognized that pensionary benefits are subject to statutory rules and recovery can be effected where loss is attributable to misconduct or negligence of the employee.

(17). This Court also does not find the punishment imposed upon the petitioner to be disproportionate warranting interference. The recovery ordered has direct nexus with the quantified financial loss allegedly caused to the State exchequer due to the petitioner's actions. In ***Union of India v. G. Ganayutham, (1997) 7 SCC 463***, it was held that punishment can be interfered with only when it shocks the conscience of the Court. No such circumstance is made out herein.

(18). The cumulative effect of the material placed on record unmistakably indicates that the petitioner processed and facilitated transfer of the land in favour of persons who had already lost their legal entitlement pursuant to final eviction proceedings and despite existence of a confirmed auction in favour of a third party. The findings recorded by the disciplinary authority are thus based on relevant material and cannot be termed arbitrary, perverse or unsupported by evidence.

(19). Consequently, this Court finds no illegality, procedural infirmity or perversity in the impugned order dated 28.01.2021 or the dissenting note warranting interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.

(20). Dismissed.

(21). Pending application(s), if any, stands disposed of.

21.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

*1. Whether speaking/reasoned? : **Yes/No***
2. Whether reportable? : Yes/No