
(2014) 07 P&H CK 0302

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9499 of 1992 (O & M)

Faqir Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0302

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : R.K. Verma, Advocate for the Appellant; Ranbir Singh Pathania, DAG, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

K. Kannan, J.—The writ petition challenges the departmental action taken against the petitioner who at the relevant time was a Tehsildar. The charges against him were that he had got the rent deposited from one Amar Singh on the instructions issued from the Sadar office but it turned out to be that the requirement to deposit rent was only in respect of inferior evacuee land and the land being not inferior evacuee land, the Tehsildar failed to point out to the impermissibility of collection of rent at that time. The second objection was that he had caused to carry out entry in khasra girdawari the inclusion of the name of Amar Singh in the place of Municipal Corporation, Amritsar without notice to the Municipal Corporation.

2. The response to the chargesheet was that he had directed the rent to be paid only on the directions of the Sadar office. He had known that there were already proceedings pending between Amar Singh and one Mohan Singh and others before the Executive Magistrate under 145 Cr.P.C. He had carried out personal inspection on the directions from the DRA about the party in person and his personal visit revealed Amar Singh to be in possession and, therefore, he had directed the Patwari Halqa for necessary action. The Patwari had no business to change the khasra girdawaris without complying with the legal requirements,

namely, of having to issue notice. If the same had been made without notice, the person responsible was the Patwari Halqa and not the petitioner.

3. These explanations had been rejected and a punishment had been imposed imposing stoppage of two increments with cumulative effect.

4. I am conscious of the fact that the court's intervention in departmental proceedings relating to dereliction of duty are limited to examining only patent errors or grave violations of principle of natural justice. If the charge was that he had got the rent deposited without assessing the nature of land, the disciplinary authority ought to have noticed that the direction to deposit rent was at the instructions of the higher officials and the petitioner himself cannot be blamed for the same. In any event, I cannot fathom how this could cause any loss to the government or create any situation that would expose the government at any risk. It was not as if, the government property was lost or revenue was lost. If an undeserved remittance came to the coffers, the simplest thing to do was to return the money to Amar Singh. A failure to collect rent could be termed as loss, for, it would mean loss of revenue but collection of revenue when no money was to be collected cannot be treated at par to be characterized as unlawful act. The reparation to getting the rent deposited was a simple refund of the money without involving in any investigation or enquiry.

5. Even the correction of the girdawari cannot be wholly attributed to the petitioner. The directions came to be issued by him after a personal inspection and after examination of the orders issued by the Executive Magistrate finding Amar Singh to be in possession of the property. If the Municipal Committee, Amritsar had its own stake, then the correction in the girdawaris without notice could have been rectified by recalling the order and allowing for an enquiry to go, namely, by involving the Municipal Corporation to state its objections and pass appropriate orders regarding whose name should be entered in the khasra girdawari. It is not the case that the Patwari Halqa had done an act which was in conformity with law. If at all, it was the lapse on the part of the subordinate officer under the petitioner and not the petitioner himself. The explanations given by the petitioner were worthy of acceptance and the rejection of the same by the authorities are the result of complete lack of application of mind. The orders are vitiated and hence, quashed.

6. The petitioner shall be paid all the monetary benefits that have accrued to him and which had been withdrawn on account of proceedings by due reckoning to be made within a period of 8 weeks from the date of receipt of copy of this order.

7. The writ petition is allowed on the above terms.