
(2014) 07 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 22958 of 2011

Mohinder Singh Beeka

APPELLANT

Vs

United India Insurance Company Limited

RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0094

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : Sanjiv Gupta, Advocate for the Appellant; D.R. Bansal, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sabina, J.—Petitioner has filed this petition challenging the orders dated 9.6.2006 (Annexure P-5), 19.2.2009 (Annexure P-9), 26.2.2009 (Annexure P-10) and 18.4.2011 (Annexure P-13).

2. Case of the petitioner, in brief, is that he was working as Development Officer at Branch Office Phagwara. Allegations of corruption were levelled against the petitioner that he had accepted Rs. 2,000/- from Sawinder Singh as illegal gratification. Charge sheet was issued to the petitioner and he submitted his reply to the same. Enquiry officer was appointed to enquire into the allegations levelled against the petitioner. Enquiry officer submitted his report Annexure P-2. Petitioner was issued a show cause notice and vide impugned order Annexure P-5, petitioner was ordered to be dismissed from service. Petitioner apprised the respondents that on identical allegations, criminal case has been registered against him and he had been acquitted by the Court vide judgment dated 1.12.2008 (Annexure P-6). Representations moved by the petitioner were rejected vide orders dated 19.2.2009 and 26.2.2009. Thereafter, petitioner filed CWP No. 19112 of 2009 in this Court challenging the orders Annexure P-5, Annexure P-9 and Annexure P-10. However the said writ petition was got dismissed as withdrawn to enable the petitioner to avail his remedy of appeal.

Appeal filed by the petitioner was dismissed vide impugned order (Annexure P-13). Hence, the present petition by the petitioner.

3. Learned counsel for the petitioner has submitted that petitioner was liable to be reinstated in service as he had been acquitted by the criminal Court. The allegations against the petitioner in the criminal proceedings as well as in the departmental proceedings, were identical.

4. Learned counsel for the respondents, on the other hand, has submitted that the departmental enquiry was held against the petitioner qua the allegations of corruption, levelled against him. The charges levelled against the petitioner were duly proved in the departmental enquiry. The fact that petitioner was acquitted in the criminal case had no bearing on the departmental proceedings. In support of his arguments, learned counsel has placed reliance on Samar Bahadur Singh Vs. State of U.P. and Others, wherein it was held as under:-

Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities. In the present case, we find that the department has been able to prove the case on the standard of preponderance of probabilities. Therefore, the submissions of the counsel appearing for the appellant are found to be without any merit.

5. In the present case, petitioner was working as a Development Officer. Petitioner was charge sheeted on the allegations that he had demanded and accepted illegal gratification to the tune of Rs. 2,000/- from Sawinder Singh on 2.2.2001. Charge sheet issued to the petitioner in this regard is Annexure P-1. Petitioner submitted his reply to the charge sheet. Thereafter, enquiry officer was appointed. Enquiry officer vide its report dated 27.9.2005 (Annexure P-2) held that the charges levelled against the petitioner stood proved. Thereafter, notice Annexure P-3 was issued to the petitioner along with copy of the enquiry report. A perusal of the enquiry report reveals that petitioner was given full opportunity during the enquiry proceedings. Petitioner was caught red handed while accepting bribe in a raid organized by the Vigilance Department. The punishing authority after going through the enquiry report as well as the reply submitted by the petitioner, passed the impugned order imposing penalty of dismissal from service on the petitioner.

6. The scope of judicial review regarding interference with punishment order is very limited. The jurisdiction of this Court is only to see the method/manner of awarding punishment. The Court is only concerned with the procedure adopted by the Punishing Authority. If the procedure adopted by the Punishing Authority is according to rules and natural justice, then no interference with the punishment order is called for. This Court cannot go into the merits of the case. In case, the finding of the Inquiry Officer is based on some evidence, then this

court cannot re-appreciate the evidence or weigh the same like the Appellate Authority. So long as there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be sustained. Some defect in the inquiry has to be pointed out before this Court can interfere with the punishment order. Further more, if defect is pointed out then the delinquent employee has to show as to what prejudice has been caused to him on account of the said defect.

7. It is not a case where the petitioner had been dismissed from service merely on account of his involvement in the criminal case. In that case, acquittal of the petitioner in the criminal trial would have gained significance. However, in the present case, petitioner was departmentally proceeded and was dismissed from service vide impugned order dated 9.6.2006 (Annexure P-5). Thereafter, in the criminal trial, petitioner was acquitted by the Court vide order dated 1.12.2008 (Annexure P-6). The acquittal of the petitioner in the criminal trial will have no bearing on the departmental proceedings as in the departmental proceedings, the charges levelled against the petitioner stood duly proved. Thereafter, the representation moved by the petitioner for reinstatement on account of his acquittal in the criminal case, was dismissed vide order dated 19.2.2009 (Annexure P-9). Vide Annexure P-10, petitioner was communicated the order Annexure P-9. Thereafter, petitioner filed CWP No. 19211 of 2009 challenging orders Annexure P-5, Annexure P-9 and Annexure P-10. The said writ petition was dismissed as withdrawn on 11.12.2009. A perusal of the said order reveals that petitioner had not withdrawn the writ petition with liberty to file an appeal. Although, the writ petition, filed by the petitioner, was got dismissed as withdrawn on 11.12.2009, but he filed the appeal on 24.12.2010 (Annexure P-12). Appeal filed by the petitioner was dismissed on merits as well as on the ground of delay. Petitioner could have filed an appeal against the dismissal order within a period of three months. However, he filed the appeal on 24.12.2010. Appeal filed by the petitioner was, thus, liable to be dismissed being time barred. Even on merits, the appeal filed by the petitioner was liable to be dismissed as the fact that petitioner had been acquitted in the criminal case, had no bearing on the departmental action taken against the petitioner.

8. In the facts and circumstances of the present case, no ground for interference by this Court is made out.

9. Dismissed.