
(2011) 03 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5063 of 2011

Talib Masih

APPELLANT

Vs

Financial Commissioner (Appeals-II), Punjab and Others

RESPONDENT

Date of Decision : 21-03-2011

Acts Referred:

Punjab Land Revenue Rules, 1909 — Rule 20

Citation : (2011) 03 P&H CK 0028

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Advocate : Mehar Singh Rattu, for the Appellant;

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—The petitioner was appointed as Lambardar for village Chhangla, Tehsil Dasuya, District Hoshiarpur. Certain complaints were received against the petitioner to the effect that he is not easily available to the villagers and that he is a habitual offender and had been convicted twice in FIR cases. Considering the facts vide impugned order 22.4.2008 (Annexure P-1), District Collector, Hoshiarpur, dismissed the petitioner, however, taking into account only ground of repeated conviction of the petitioner. The Appellate Authority viz. Commissioner, Jalandhar Division, Jalandhar, vide Order dated 28.7.2008 (Annexure P2) and Revisional Authority viz. Financial Commissioner (Appeals-II), Punjab, vide Order dated 3.12.2008 (Annexure P-3) have dismissed the Appeal and Revision of the petitioner, thereby upholding the order Annexure P-1 passed by Collector, Hoshiarpur.

2. Learned counsel for the petitioner contends that the petitioner has been released on probation of good conduct on his furnishing personal bonds. The conviction has been recorded only for offence under the Punjab Excise Act. Last conviction dates back to the year 2002. The complaint itself is belated. Nature of offence is minor and does not involve moral turpitude, and therefore, impugned orders are not justified. In support of his arguments, learned counsel has relied

on 1985 R.R.R. 477 : Narain Singh Vs. Shri N.S. Cheema and others The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, The Divisional Personnel Officer, Southern Railway and another v. T.R. Challappan.

3. This Court in Narain Singh's case (supra) was considering a case under the Punjab Gram Panchayat Act, 1952. Narain Singh had been elected as Sarpanch of the Gram Panchayat. The election had been challenged on the ground that Narain Singh was disqualified from seeking election under the Punjab Gram Panchayat Act in view of his conviction under the Punjab Excise Act which amounted to moral turpitude among other grounds. In regard to the issue whether conviction under the Punjab Excise Act would tantamount to moral turpitude, it has been held that Narain Singh had been found in possession of illicit liquor and only the said fact would not indicate that Narain Singh was of a depraved character or a person who was to be looked down upon by the society. It has also been considered that said person was the first offender and thereafter had been elected. Clearly, the facts of the case would not have any application to the facts of the present case.

4. In T.R. Challappan's case (supra), it has been held that an order of release on probation comes into existence only after the accused is found guilty and is convicted for the offence. Thus, conviction of the accused or the finding of the Court that he is guilty cannot be washed out at all because that is the sine qua non for the order of release on probation of offender. The order of release on probation is merely a substitution of the sentence to be imposed. This however does not contemplate automatic disqualification of a person released on probation.

5. The Hon'ble Supreme Court was considering a case of a person who was serving the Railways as Pointsman. He was arrested on the platform for disorderly, drunken and indecent behavior. He was convicted, however, released on probation. It has been held that the conduct of the employee did not indicate sufficient proof of misconduct. Under the circumstances, automatic dismissal from service was not called for in terms of service rules governing service conditions of the employee. This Court is however dealing with the case of a Lambardar under the Punjab Land Revenue Rules, and therefore the judgment of Hon'ble Supreme Court would have no relevance.

6. It is an admitted fact that the petitioner, at the first instance, was convicted vide judgment dated 6.1.2001 (Annexure P-4) and was released on probation of good conduct. Clearly, the petitioner did not maintain good conduct and therefore, again indulged in similar criminal activity which is an offence under the Punjab Excise Act. The petitioner was again convicted vide judgment dated 19.3.2002 (Annexure P-5) by a Court having competent jurisdiction. The Court however, took a lenient view and released the petitioner under the Probation of Offenders Act.

7. A Lambardar is required to perform duties as given out in Rule 20 of the Punjab Land Revenue Rules. Unless the Lambardar has good relations in the village, personal influence, character and ability, the duties cannot be discharged. The Lambardar or Headman is required to know the persons living in the estate, and is required to give inputs/information to the senior revenue officers on various counts. A person such as the petitioner, who at his discredit has two judgments on the criminal side, would not be an appropriate person to discharge the duties under the Land Revenue Rules. In such circumstances, this Court does not find any reason to interfere with well reasoned orders passed by the authorities in extraordinary writ jurisdiction. No ground for judicial review of the impugned orders, in peculiar facts and circumstances of the case, is made out. The petition is accordingly dismissed.