



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA No. 2120 of 2017(O&M)
Date of Decision: 15.02.2025.**

State of Punjab and others

.....Appellants

Versus

Gurmej Singh (deceased) through his LRs Smt. Surjit Kaur and others

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Rohit Ahuja, DAG., Punjab
for appellants.

Mr. Ashok Bhardwaj, Advocate
for respondents.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 18.04.2017 passed by learned Single Judge, whereby CWP No. 15103 of 2014, filed by respondent-writ-petitioner was allowed.
2. Respondent/writ-petitioner filed the abovesaid writ petition for setting aside order dated 19.04.2000 whereby his services were terminated, salary and other benefits received by him for the period from 16.01.1993 to 16.03.1995 were ordered to be recovered. He also challenged orders dated 25.01.2005, 16.02.2005 and 12.02.2014, passed by the Appellate and Reviewing Authority.
3. Brief facts necessary for adjudication of the matter are as under

(i) Respondent-writ petitioner was appointed as Conductor with Punjab Roadways on 01.07.1967 and promoted as Booking Clerk-cum-Sub-Inspector in 1989. He submitted his resignation to the General Manager on 15.01.1993 requesting the same to be accepted w.e.f., 16.01.1993 itself while offering to deposit salary of 3 months as per applicable rules on the ground that his family affairs/conditions were not good and he was unable to perform his duties. Resignation was accepted on the same day by the General Manager, Punjab Roadways, Taran Tarn Depot vide order dated 15.01.1993, asking the writ-petitioner to deposit salary for 3 months, which was so done.

(ii) It is a matter of record that writ-petitioner contested elections to the post of Sarpanch of village Gram Panchayat village Bhairawal and was elected as Sarpanch on 18.01.1993. According to writ petitioner, he was unable to perform duties of Sarpanch on account of group rivalry in the village. Application dated 07.04.1993 was submitted to the Transport Minister, Punjab, seeking withdrawal of his resignation.

(iii) It is to be noted at this stage that in this application dated 07.04.1993, submitted to the Minister for State Transport, it is stated that appellant had resigned from the post of Booking Clerk on 15.01.1993 because of his domestic affairs being unsatisfactory and resignation was submitted out of disappointment and without intention. As his family circumstances had become good and he was not feeling any disappointment, he requested for withdrawal of his resignation. The then, Minister for Transport, Punjab vide order dated 07.04.1993 directed the Divisional Manager, Ferozepur, that resignation of writ-petitioner be not accepted. Pursuant thereto, General Manager, Taran Tarn Dept, vide order dated 23.07.1993 informed the writ-petitioner that his resignation was not accepted

and he was directed to report for duty.

(iv) Complaint was submitted by certain unions against the writ-petitioner before the General Manager to the effect that the writ-petitioner had not resigned from the post of Sarpanch and he was working as Sub-Inspector, Punjab Roadways while performing the duties of Sarpanch of village Bhairawal. Writ-petitioner took a stand that he submitted his resignation from the post of Sarpanch on 29.09.1993, which was ultimately accepted by the Divisional Deputy Director Rural Development and Panchayat, Jalandhar, vide order dated 16.03.1995.

(v) Inquiries were made by the department regarding submission of resignation. In the written statement filed on behalf of the department before learned Writ Court, it is mentioned that correspondence was exchanged between General Manager, Punjab Roadways and the department of Panchayats and Rural Development in this regard. It was informed by the Divisional Deputy Director, Rural Development and Panchayat, Jalandhar, vide letter dated 01.12.1994, that no application for resignation from the post of Sarpanch had been received from the writ-petitioner. It is stated that ultimately resignation was accepted on 16.03.1995.

(vi) Writ-petitioner was placed under suspension on 22.07.1997 and served with charge-sheet dated 01.09.1997 under Rule 8 of Punjab Civil Services (Punishment and Appeal), Rules 1970 (for short 'Punishment and Appeal Rules). Allegations as per the charge-sheet were that writ-petitioner's resignation from the post of Sarpanch submitted on 29.09.1993 had been accepted by the competent authority on 16.03.1995 on the ground of certain family/domestic issues. Application for withdrawal was straightway submitted to the Minister, State Transport in violation of

applicable Rules and was not submitted before the competent authority under Rule 7.5 (4) of Punjab Civil Services Rules. It was further alleged that writ-petitioner intentionally approached the concerned Minister to pressurize the General Manager, Punjab Roadways and this action was in violation of Rule 20 of the Government Employees (conduct Rules) 1966 and Instructions dated 24.06.1977. Moreover, he had resigned not because of any domestic affairs but to contest election to the post of Sarpanch of the concerned Gram Panchayat. Furthermore, resignation from the post of Sarpanch was accepted on 16.03.1995, therefore, writ-petitioner worked as Booking Clerk/Sub Inspector while performing duties of Sarpanch, Gram Panchayat village Bhairawal from 16.01.1993 to 16.03.1995 and received salary worth Rs. 87,604/- as Booking Clerk from 16.01.1993 to 16.03.1995. It was further alleged that he had deceived the department and had used illegal means, therefore was liable for punishment.

(vii) Inquiry was conducted into allegations as above while associating the writ-petitioner therewith. As per inquiry report dated 27.01.2000, writ-petitioner was held guilty of the charges. Order dated 19/28.04.2000 was passed terminating his services with immediate effect besides a direction to recover the salary received by him from 16.01.1993 to 16.03.1995.

(viii) CWP No. 5590 of 2000 was filed by writ-petitioner, which was disposed of on 24.03.2003 leaving the writ-petitioner at liberty to avail the alternate remedy of departmental appeal. Appeal dated 05.06.2003 filed by writ-petitioner was dismissed on 25.01.2005. CWP No. 6746 of 2005 was again filed by writ-petitioner, which was disposed of on 26.09.2013, setting aside order dated 25.01.2005 and remanding the matter back to the Appellate Authority to consider the matter afresh and pass a

speaking order within a period of three months as order dated 25.01.2005 was found to be cryptic and non-speaking.

(ix) In compliance of order dated 26.09.2013, matter was considered afresh and a detailed order dated 12.02.2014 was passed upholding the order of termination.

(x) Aggrieved therefrom, CWP No. 15103 of 2014 was filed.

(xi) Learned Single Bench while considering the documents on record, facts and circumstances, concluded that submission of application seeking withdrawal of resignation before the Minister of Transport, does not amount to deception of the department and it is often seen that employees would approach the highest officers for their problems, therefore, it cannot be said that there is any political influence. If at all, the fault lay with the department itself which should have verified the facts and circumstances before allowing the writ-petitioner to join service. It was held that such subsequent proceedings conducted after writ-petitioner had been permitted to work for a number of years, were not justified. Impugned orders were thus set aside. It was directed that as writ-petitioner had already attained age of superannuation and had in-fact died during pendency of writ-petition, he would be deemed to have retired from service on the date of his having attained superannuation, he would be entitled to pension and other pensionary benefits, now to be released to his legal heirs. Legal heirs would also be entitled to family pension. Recovery, if any, effected from the writ-petitioner was directed to be refunded with interest at the rate of 9% per annum.

4. Aggrieved therefrom, present appeal has been filed by the department/State.

5. Learned counsel for appellants vehemently argues that

documents on record clearly prove the charges against the writ-petitioner. It is borne out from the record that he continued to work as Sarpanch and Booking Clerk/Sub-Inspector from 1993 to 1995. There is clear cut violation of Rule 7.5 (4) of the Punjab Civil Services Rules. Political pressure on the authorities is apparent from the record. Political influence, which was sought to be wielded by writ-petitioner is apparent from the audacity with which he even submitted an application dated 05.10.1995 seeking refund of the salary of three months. Therefore, this action was in violation of Rule 20 of the Government Employees Conduct Rules, 1966. CWP No. 5090 of 1995 had been filed by some of the residents of village Bhairawal for issuance of a writ of *quo warranto* in respect to writ-petitioner continuing to hold the post of public office of Sarpanch as well as continuing to work as Booking Clerk with the Punjab Roadways. This writ petition was dismissed as infructuous on 03.08.1995 in view of the resignation submitted by writ-petitioner from the office of Sarpanch. It was thus prayed that impugned order dated 18.04.2017 be set aside and writ-petition filed by respondent-writ-petitioner be dismissed.

6. Learned counsel for respondent-employee, now represented through his legal heirs refutes the arguments as raised on behalf of appellants. Impugned order dated 18.04.2017, it was submitted has been correctly passed after taking in consideration the facts and circumstances of the case. Learned counsel contended that it was for the authorities themselves to have been vigilant in the year 1993 itself when appellant had sought withdrawal of his resignation. Application for withdrawal of resignation had been filed well within the period of three months. There was no question of political pressure, it was the General Manager, being the competent authority, who accepted withdrawal of resignation. Reference is

made to statement of the then General Manager, who deposed as PW-8 in the inquiry proceedings to submit that he does not say anything about political pressure. Period of 32 years of unblemished service, it was urged has been incorrectly ignored and disproportionate punishment imposed, which has been correctly set aside by learned Single Bench. It was thus submitted that this appeal be dismissed.

7. We heard learned counsel for the parties and have carefully perused the file.

8. Factual aspect of the writ-petitioner submitting his resignation on 15.01.1993, requesting for it to be accepted w.e.f., 16.01.1993 along with deposit of three months salary and acceptance of this resignation on 15.01.1993 itself, is a matter of record. It is to be noted that writ-petitioner sought to resign from the post in question on account of his domestic issues, whereas he admittedly contested for the post of Sarpanch and was elected as such on 18.01.1993 itself. After his election to the post of Sarpanch, he submitted application dated 07.04.1993 before the Minister for State Transport, Punjab seeking withdrawal of his resignation. It is again a matter of record that at this point of time, writ-petitioner had not resigned from the post of Sarpanch.

9. The Minister for State Transport, Punjab, directed the Divisional Manager, Ferozepur, that appellant's resignation be not accepted, without taking note of the fact that his resignation had been duly and admittedly accepted. Accordingly, General Manager, allowed him to join duty on 07.10.1993, writ petitioner even sought refund of three months salary deposited by him at the time of his resignation vide letter dated 05.10.1995.

10. It is pertinent to note at this stage that as per his application

dated 07.04.1993, submitted to the Minister for State Transport, Punjab, writ-petitioner stated that he had resigned from the post of Booking Clerk on 15.01.1993 because of his domestic affairs not being satisfactory and that resignation was submitted out of disappointment, without intention. With improvement in his family circumstances, he sought permission to withdraw his resignation. Apparently, appellant in his application dated 05.10.1995, did not, for a moment, state anything about contesting elections to the post of Sarpanch. As on said date (07.04.1993), he had not even submitted his resignation from the said post. It is further apparent that the matter came to simmer because of complaint submitted by some worker unions. Practice of deception on the part of writ-petitioner cannot be escaped. Political influence sought to be used by the employee is also apparent from a bare perusal of the file. Reference by learned counsel for respondent-writ-petitioner to statement of PW-8-Harjinder Singh Hind, the then General Manager, is of no avail for the reason that in response to the question regarding political pressure, PW-8 stated that case file be perused for the same. The case file clearly reveals such influence and pressure. The General Manager, apparently under direct orders of Divisional Commissioner and the Minister for State Transport, allowed the writ-petitioner to join service though the resignation stood accepted on 16.03.1995.

11. In the given factual matrix, learned Single Bench has erred in holding that charge (s) against writ-petitioner is/are not proved and that it was for the department to have remained vigilant. Needless to say, there is a shortcoming on the part of the department inasmuch as instead of the facts being placed on file at the relevant point of time, matters were brushed under the carpet, apparently under political pressure. However, that by itself, is not sufficient to grant relief to writ-petitioner, who is clearly not free from

blemish.

12. Keeping in view the facts and circumstances as above, impugned order dated 18.04.2017 is set aside and order dated 19/28.04.2000 as well as orders dated 25.01.2005, 16.02.2005 and 12.02.2014 passed by the appellate and revisional authority are upheld. However, keeping in view the fact that writ-petitioner has since passed away, it is directed that recovery, if any, of the salary for the period from 16.01.1993 to 16.03.1995 be not carried out from the legal heirs of the writ-petitioner.

13. No other argument was raised.

14. Appeal is accordingly allowed. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

February 15, 2025.

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No