
prosecution, two bottles of liquor were recovered out of which 3/4th of the contents had been consumed from each bottle and the remaining contents were put in two quarter bottles. Thus, the recovery was of less than 1 bottle of 750 ml. The offence would be compoundable on payment of composition fee of Rs. 100 and on the payment of the said money, no further proceedings shall be taken in respect of said offence. That being the position, in my opinion, even otherwise, the offence being of a trivial nature, no interference is required by this court, in the exercise of its powers under Section 482 Cr. P.C. or in the exercise of its powers under Section 397 read with section 401 Cr. P.C.

(16) For the reasons recorded above, finding no merit in this petition, the same is dismissed.

R.N.R.

Before Mehtab S. Gill, J

PAWAN KUMAR GARG,—*Petitioner*

versus

THE PUNJAB COOPERATIVE COTTON MARKETING
& SPINNING MILLS FEDERATION LTD
& OTHERS,—*Respondents*

C.W.P. No. 14340 of 2000

20th February, 2001

Constitution of India, 1950—Arts. 226 & 311—Punjab Civil Services (Punishment & Appeal) Rules, 1970—Rl. 9—Enquiry Officer exonerating the petitioner of all the charges—Punishing Authority disagreeing with the Enquiry Officer—Whether he can order a de novo inquiry into the same charges by another Enquiry Officer—Held, no—Order of punishing authority ordering a fresh inquiry quashed with liberty to restart the inquiry from the stage when the inquiry report was submitted.

Held that it is no where mentioned in Rl. 9 of the 1970 Rules that the Punishing Authority can order a *de novo* inquiry. All that he can order is further inquiry by the same Inquiry Officer who held the inquiry in the first instance or if he disagrees with the finding of the Inquiry Officer, then he will have to record his reasons as to why he was dis-agreeing. The Punishing Authority has not gone into the details

as to why he was not agreeing with the Inquiry Officer. The Inquiry Officer has dealt with the inquiry chargewise. The Punishing Authority should also pass a detailed order and not a cryptic and bald order merely saying that he does not agree with the Inquiry Officer. Thus, the impugned order appointing a new Inquiry Officer is quashed.

(Para 12)

Vinod Sharma , Advocate, for the Petitioner

Puneet Kansal, Advocate, for Respondent.

Nos. 1 to 3

JUDGMENT

Mehtab S. Gill, J.

(1) The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing order dated 12th July, 2000, annexure p4.

(2) The petitioner has averred that Punjab Cooperative Cotton Marketing & Spinning Mills Federation Limited (hereinafter referred to as Spinfed) is an apex society registered under the Punjab Co-operative Societies Act. The employees of Spinfed for the purposes of punishment and appeal are governed by the provisions of Punjab Civil Services (Punishment and Appeal) Rules, 1970. The petitioner was a Deputy Spinning Master in the year 1983. On the availability of the post of Spinning Master, the petitioner put in his resignation and was re-appointed as a Spinning Master in January, 1987 in Mansa Co-operative Spinning Mills (hereinafter called the Mill). The Mill was ordered to be closed and the petitioner was then given additional charge of Chief Executive of the Mill. In June, 1997, he was given further charge of Tapa Co-operative Spinning Mills Limited.

(3) The petitioner has further averred that he has put in his best efforts and improved the running of the Mill inspite of constraints like the maintenance of backlog and the poor condition of the machinery. When the petitioner was given additional charge of Tapa Co-operative Spinning Mills, respondent No. 3 was incharge of the cotton purchase. In the meeting of the Mill, it was noticed that some officials were responsible for selecting low quality Maharashtra cotton. Due to this, there was no production and the petitioner being Chief Executive was charge sheeted. A copy of charge-sheet is attached as Annexure P1. The petitioner submitted detailed reply to the charge sheet which has

been attached as Annexure P2. The Appointing Authority appointed Shri D.K. Jain, IAS (Retired) as an Inquiry Officer to hold an inquiry against the petitioner. Opportunity of hearing was given to the petitioner. Witnesses were produced. After considering the matter in detail, the Inquiry Officer exonerated the petitioner of all the charges. A copy of inquiry report has been attached as Annexure P3.

(4) The petitioner has further averred that during the pendency of inquiry, respondent no. 3, who was responsible for purchase of inferior quality of cotton was given the charge of Managing Director of SPINFED. He did not find the report of Inquiry Officer convenient to him and to his liking. Respondent No. 3, after exercising his powers as a Punishing Authority, appointed Shri R.K. Gupta, General Manager (Finance) a new Inquiry Officer with a direction to hold *de novo* inquiry. A copy of this order has been attached as Annexure P4 and this is the order which is under challenge. *Mala fides* have been attributed to respondent No. 3 as he was incharge of the purchase of Maharashtra cotton and as a Managing Director, he was acting in a manner so that the petitioner may be falsely implicated.

(5) Notice of motion was issued.

(6) Respondent Nos. 1 to 3 filed their reply denying all the averments of the petitioner and reiterating that the Managing Director i.e. respondent No. 3 was within his right to order *de novo* enquiry.

(7) I have heard counsel for the petitioner and the counsel for the respondents.

(8) At the very outset, the learned counsel for the petitioner has drawn my attention to Rule 9 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 which is reproduced hereunder :—

“Rule—9 Action on the inquiry report

1. The punishing authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold further inquiry according to the provisions of Rule 8 as far as may be.
2. The punishing authority shall, if it disagreed with the findings of the inquiring authority on any article of charge, record its reasons for each disagreement and record its own findings

on such charge, if the evidence on record is sufficient for the purpose.”

(9) It is nowhere mentioned that the Punishing Authority can order a *de novo* inquiry. All that he can order is further inquiry or if he dis-agrees with the Inquiry Officer, he has to record his own reasons to that effect.

(10) The learned counsel for the respondents vehemently argued that the petitioner is not governed by Rule 9 but is governed by the Punjab Co-operative Spinning Mills Federation Service (Common Cadre) Rules, 1989 (for short the Rules). He has drawn my attention to the interpretation clause as contained in Rule 5.1 of the Rules, which is reproduced as under :—

“Interpretation.”

Authority to interpret these rules :—

If any doubt arises at any time as to the interpretation of these rules or their application, the matter shall be referred to the Managing Director, whose decision shall be final.

GENERAL

Any case which is not covered by the above rules, would be regulated and governed by the Punjab Civil Service Rules and Punjab Financial Rules, as the case may be.”

(11) The learned counsel for the respondents has further drawn my attention to Rules 1.2 and 1.3 (b) as contained in Annexure II of the Rules.

(12) Going through the interpretation clause in the Rules, it is clear that any case which is not covered by the above rules would be regulated and governed by the Punjab Civil Service Rules. Further going through Rule 9 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, it is evident that the Punishing Authority cannot order a *de novo* inquiry. All that he can order is further inquiry by the same Inquiry Officer who held the inquiry in the first instance or if he dis-agrees with the finding of the Inquiry Officer, then he will have to record his reasons as to why he was disagreeing. Going through impugned order, Annexure P4, it is clear that the Punishing Authority has said “I, after thoroughly considering the report of Inquiry Officer

chargewise, do not agree with the same". He has further said in his order, Annexure P4, "the Inquiry Officer has also ignored several other important facts relating to the case". The Punishing Authority, i.e. Managing Director, respondent No. 4 in Annexure P4, has not gone into the details as to why he was not agreeing with the Inquiry Officer. The Inquiry Officer has dealt with the inquiry chargewise. The Punishing Authority should also pass a detailed order and not a cryptic and bald order merely saying that he does not agree with the Inquiry Officer.

(13) The leaned counsel for the petitioner has placed reliance on "*K.R. Deb v. The Collector of Central Excise, Shillong (1)*, in which it has been held as under :—

"Civil Services—Central Civil Services (Classification, Control and Appeal) Rules (1957), Rule 15 :

Rule 15 does not contemplate successive inquiries-If there is some defect in the inquiry conducted by the Inquiry Officer, the Disciplinary Authority can direct the Inquiry Officer to conduct further inquiries in respect of that matter but it cannot direct a fresh inquiry to be conducted by some other Officer."

(14) The counsel for the petitioner has also cited "*R. Rama Rao versus A.P. State Agro Industries Development Corporation Limited and another. (2)* in which it has been held as follows :—

"A. Constitution of India, Articles 16 and 311—Departmental enquiry-De novo Enquiry—Once a departmental enquiry is conducted, unless the rules applicable to the case so provide, second enquiry or a *de novo* enquiry into the same charges cannot be initiated- In the instant case, Enquiry Officer returned a finding of "not guilty" as no evidence adduced in support of charges—Not open to the Disciplinary Authority to order for a *de novo* enquiry by another Enquiry Officer, when the service rules do not provide for the same."

(15) Still further, the counsel for the petitioner relied upon "*B. Balakishan Reddy versus Andhra Pradesh State Electricity Board (3)* in which it has been held as under :—

"Constitution of India, Article 311—Departmental enquiry—*De novo* enquiry—First inquiry report found in favour of the

(1) AIR 1971 SC 1447

(2) 1997 (5) SLR 508 (AP)

(3) 1997 (8) SLR 347 (AP)

delinquent—It does not suffer from any infirmity—No provision in the relevant rules giving any power to the disciplinary authority to ignore the report of Enquiry Officer submitted to it and to direct a *de novo* enquiry—Order of the disciplinary authority to ignore the first enquiry report without assigning any reasons and appointing another enquiry officer not sustainable—Holding of second enquiry bad and unwarranted.”

(16) Going through these authorities, it becomes clear that a *de novo* inquiry cannot be ordered. Only a further inquiry can be ordered by the Disciplinary Authority.

(17) The leaned counsel for the respondents has placed reliance on “*K.R Deb versus The Collector of Central Excise, Shillong* (4) in which it has been held as under :—

“Central Civil Services (Classification, Control and Appeal) Rules, 1957 R. 15(1)—Constitution of India, Article 311—Enquiry conducted thrice by different Enquiry Officers—All the Officers exonerated the delinquent officer of the charges—Their enquiry reports, however, did not appeal to Punishing Authority who ordered a fresh enquiry for the fourth time and punished the officer on finding of guilt recorded by Enquiry Officer—Order quashed—Hold, there was no proper enquiry.”

(18) This authority does not help the respondents at all.

(19) With the above observations, the impugned order, Annexure P4 is quashed. The respondents are at liberty to re-start the inquiry from the stage when the inquiry findings were submitted by the Inquiry Officer, Shri D.K. Jain, I.A.S. (Retired).

(20) This writ petition is disposed of in the manner indicated above.

R.N.R.