
have told a series of lies. They have shown no regard for truth. The petitioners had not shown any remorse or repentance for the wrong statements made by them. In fact, it was asserted that their relations were strained. The wife was staying with her parents when she had applied for the flat. They are guilty of not only trying to hoodwink and providing false information to the Housing Board but have also made a substantial amount of money by misleading respondent-Harjit Singh. In the circumstances of this case, grant of any relief to the petitioners would amount to putting premium on dishonesty. We cannot persuade ourselves to reward such people. In fact, power under Article 226 has to be used to undo injustice. To help the needy. Not to reward the dishonest and greedy.

(19) Mr. Jain contends that if an opportunity of personal hearing had been given, the petitioners might have persuaded the authority to allow partial forfeiture of the amount paid by them. We are unable to accept even this contention. The total amount paid by each of the petitioners is Rs. 24,000. They have occupied the premises for a period of more than 18 years each and now one of the flats has been sold to respondent-Harjit Singh while the other is still in their occupation. They have recovered the money many times over.

(20) No other point has been raised.

(21) In view of the above, we find no merit in these petitions which are consequently dismissed. No costs.

R.N.R.

Before Mehtab S. Gill, J

BACHAN SINGH—*Petitioner*

versus

STATE OF PUNJAB & OTHERS—*Respondents*

C.W.P. No. 8399 of 2000

24th May, 2001

Constitution of India, 1950—Art. 226—Civil Court setting aside an order awarding punishment to the petitioner being illegal—Judgment of the Civil Court attained finality as no appeal against this judgment filed—Authorities issuing show cause notice & charge sheet on the same charges—Action of respondents illegal & not

justified—Writ allowed while quashing the show cause notice & charge sheet.

Held, that the learned Civil Judge had passed judgment after recording of evidence and then decided the suit on merits giving his findings issue-wise. The suit was decreed in favour of the plaintiff. Against this judgment dated 6th November, 1993, the respondent-State did not file any appeal. Thus, it has attained finality. The respondents cannot be allowed now to issue a show cause notice and charge the petitioner with the same charges which he was charged in the year 1989 and that too after his retirement.

(Paras 11 & 13)

R. K. Girdhar, Advocate—for the petitioner

K.S. Sivia, Assistant Advocate General, Punjab—for the respondent

JUDGMENT

MEHTAB S. GILL, J

(1) The petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the show cause notice and the charge-sheet dated 24th January, 2000 (Annexures P-4 and P-5) respectively.

(2) The petitioner has averred that he was working as Inspector in the Cooperation Department. On 30th December, 1986 a show cause notice along with the charge-sheet was served upon him stating therein that he along with one Sarup Chand misappropriated an amount of Rs. 5,382.09p, Rs. 2,512.50p and Rs. 283.50p. An enquiry was held. The Deputy Registrar, Cooperative Societies, Faridkot was appointed as Enquiry Officer. He submitted his enquiry report on 12th June, 1989. The Registrar, Cooperative Societies, Punjab, Chandigarh (respondent No. 2) accepted the enquiry report submitted by the Enquiry Officer and passed an order dated 2nd October, 1989 stopping three future annual increments of the petitioner with cumulative effect (copy is attached as Annexure P-1).

(3) Against the order dated 2nd October, 1989 (Annexure P-1) passed by the Registrar, Cooperative Societies, Punjab, Chandigarh (respondent No. 2), the petitioner filed an appeal before the Secretary, Government of Punjab, Cooperation Department, Chandigarh (respondent No. 1), but his appeal was dismissed vide order dated 10th April, 1990 (copy is attached as Annexure P-2).

(4) Aggrieved by the order dated 2nd October, 1989 (Annexure P-1) and order dated 10th April, 1990 (Annexure P-2), as referred to above, the petitioner filed a Civil Suit No. 748 dated 11th August, 1991 in the Court of Sub Judge 11th Class, Muktsar. Notice of the suit was issued to the respondents and after recording the evidence, the learned Civil Judge decreed the suit filed by the petitioner and set aside the order dated 2nd October, 1989 (Annexure P-1) and order dated 10th April, 1990 (Annexure P-2) holding them to be illegal. A copy of the judgment dated 6th November, 1993 passed by the learned Civil Judge is attached with the writ petition as Annexure P-3.

(5) This judgment dated 6th November, 1993 (Annexure P-3) passed by the Sub Judge 11th Class, Muktsar was never challenged by the respondents and thus, it became final between the parties.

(6) Notice of motion was issued.

(7) Respondent Nos. 1 to 3 and 4 filed their separate written statements.

(8) I have heard the learned counsel for the petitioner and the respondents, perused the petition and the annexures attached thereto.

(9) Learned counsel for the petitioner has argued that the judgment and decree passed by the Sub Judge 11th Class, Muktsar dated 6th November, 1993 (Annexure P-3) has attained finality and now at this belated stage, a show cause notice dated 24th January, 2000 (Annexure P-4) cannot be issued against the petitioner on the same grounds. He has further argued that the impugned show cause notice dated 24th January, 2000 (Annexure P-4) is a photostat copy of the same show cause notice which was issued to him in the year 1989. In support of his contention, learned counsel for the petitioner has placed reliance in the case of *Harbhajan Singh vs. State of Punjab and others (1)* wherein also a charge-sheet was issued in the year 1987 qua allegations pertaining to the year 1976. Immediately after the issuance of charge-sheet, the petitioner retired. Here in the present case also the petitioner had retired. This Hon'ble Court quashed the charge-sheet and the punishment imposed because there was unreasonable delay in the proceedings.

(1) 1991 (2) S.C.T. 302

(10) Learned counsel for the respondents has stated that the Civil Court had decreed the suit of the petitioner only on technical ground.

(11) I have gone through the judgment dated 6th November, 1993 (Annexure P-3) passed by the Sub Judge IInd Class, Muktsaer. Issues were framed and the learned Civil Judge had passed the judgment after recording of evidence and then decided the suit on merits, giving his findings issue-wise. The plaintiff (petitioner herein) had sought declaration to the effect that the order dated 2nd October, 1989 vide which he was awarded punishment of stoppage of three annual grade increments, was illegal. The suit was decreed in favour of the plaintiff. This judgment of the Sub Judge IInd Class, Muktsar is dated 6th November, 1993 (Annexure P-3). Against this judgment, the respondent-State did not file any appeal. Thus, it has attained finality.

(12) My attention was drawn by the State counsel to the stand taken by respondents-State in paragraph 10 of its reply to the present writ petition which states that a fresh enquiry on the same charges is constitutional and is justified.

(13) I do not agree with this contention of the State counsel as the Civil Court has already given its findings in favour of the petitioner. The respondents cannot be allowed now to issue a show cause notice and charge the petitioner with the same charges which he was charged in the year 1989 and that too after his retirement.

(14) With these observations, the writ petition is allowed. Show cause notice and the charge-sheet dated 24th January, 2000 (Annexures P-4 and P-5) are quashed. The petitioner is entitled to all the consequential benefits, such as, pension, leave encashment, gratuity, commuted pension and all other retiral benefits. Respondents are further directed to pay interest at the rate of 9% per annum from 31st January, 2000 till the date of granting of retiral benefits to the petitioner.