
(1966) 03 P&H CK 0059

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ No. 2752 of 1964

Suraj Parkash

APPELLANT

Vs

The State and Another

RESPONDENT

Date of Decision: March 16, 1966

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Shamsher Bahadur, J

Bench: Single Bench

Advocate: Rajinder Sachar, for the Appellant; M.S. Pannu, Deputy Advocate-General, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Shamsher Bahadur, J.

Suraj Parkash who was a clerk in the Irrigation Department of the Punjab State was dismissed from service by an order of the Governor passed on 4th of June, 1964, communicated to him by the Executive Engineer, Talwara Township on 24th of August, 1964. In this petition under Articles 226 and 227 of the Constitution of India, at the instance of Suraj Parkash, all that has been urged by his counsel is that the order of dismissal does not conform to the requirements of Articles 154 and 166 of the Constitution. It has also been faintly urged that the findings of the Inquiry Officer do not provide a sound basis for the order of dismissal which has been passed.

2. The order of dismissal which is signed by Shri Hardev Singh Chhina, Secretary to Government, Punjab, Vigilance Department, is to this effect:

The Governor of Punjab in consultation with the Punjab Public Service Commission is pleased to dismiss Shri Suraj Parkash Clerk, Punjab P.W.D., Irrigation Branch (under suspension) from Government service with immediate effect.

The gist of the contention of the learned counsel is that the petitioner, who had been serving in the Irrigation Department, should have been dismissed only by the Secretary in that Department. A show-cause notice was issued to the petitioner on 1st of February, 1964 (Annexure A-9) in which it was stated that:

On careful consideration of the report and in particular of the conclusions drawn by the Inquiry Officer in respect of the charges framed against you, the Governor of Punjab is provisionally of the opinion that a penalty of dismissal should be imposed on you..." Mr. Sachar argues that this show-cause notice before the actual order of dismissal should also have been signed by the Secretary in the Irrigation Department. This notice (Annexure A. 9) on the other hand is signed by the Secretary to Government, Punjab, in the Vigilance Department.

3. Under clause (1) of Article 154 of the Constitution:-

The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution." With regard to the conduct of Government business, it is stated in clause (1) of Article 166 that "all executive action of the Government of a State shall be expressed to be taken in the name of the Governor". Rules have been framed under clause (3) of Article 166 and clause 9 of these Rules of Business provides that:

Every order or instrument of the Government of the State shall be signed by a Secretary an Additional Secretary, a Joint Secretary, a Deputy Secretary, an Under Secretary or an Assistant Secretary or such other officer as may be specially empowered by the Governor in that behalf and such signature shall be deemed to be the proper authentication of such order or instrument.

Further, the Vigilance Department, under the Rules of Business, is to deal with all matters pertaining to cases of corruption against Government servants dealt with or otherwise taken cognizance of by the Vigilance Department. The enquiry was made against the petitioner under the aegis of the Vigilance Department and an Inquiry Officer was appointed to go into the charges. As a result of the Inquiry Officer's report, a show cause notice was sent by the Secretary of the Vigilance Department. The subsequent order of dismissal in the name of the Governor was authenticated by the Secretary of the Vigilance Department. The Rules of Business make it clear that any Secretary can authenticate an order of the Governor. Manifestly, the order of dismissal, and the show cause notice, have been issued in the name of the Governor and are authenticated by the Secretary of the Vigilance Department. It passes my comprehension how objection could be taken to the orders which have been passed within the ambit of Articles 154 and 166 on the grounds that they have not been properly authenticated or that they are not passed in the name of the Governor. In a similar case of *Shri Piara Singh v. The State of Punjab* C.W. No. 1944 of 1963, Civil Writ No. 1944 of 1963, decided on 25th of November, 1965, an objection was raised before me that the Vigilance Department could

not pass an order of dismissal and I was of the opinion that the wording of the order could not be challenged under Article 166 of the Constitution. The order in the present instance, as in that case, is one which has been passed in the name of the Governor by a Secretary who is authorised to act in his behalf. The Rules of Business clearly empower a Secretary to act in the name of the Governor and according to the allocation of business matters relating to corruption fall within the scope of Vigilance Department. A reference may also be made to a decision of the Supreme Court in *The State of Bihar v. Rani Sonabati Kumari* AIR 1961 S. 221. p. 230, Mr. Justice Ayyangar in his judgment thus observed-

The order of Government in the present case is expressed to be made "in the name of the Governor" and is authenticated as prescribed by Article 166 (2), and consequently the validity of the order or instrument cannot be called in question on the ground that it is not an order or instrument made or executed by the Governor.

It cannot be urged that the authentication does not conform to the requirements of clause (2) of Article 166 which says that:

Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

I have already referred to the Rules of Business which have been made with regard to authentication of the orders of the Governor. A Secretary is authorised to authenticate the order of the Governor. The order impugned is in the name of the Governor. Furthermore, the Secretary in the Vigilance Department has been specially authorised to deal with matters relating to corruption.

4. The other contention of the learned counsel relates to the findings of the Inquiry Officer. It seems that the petitioner was charged with adulterous conduct with two women and one of these charges was established and on the other count it was held that the charge was not. proved. It appears that the Inquiry Officer also took into consideration the fact that the petitioner was not maintaining his wife though this was not one of the charges against the petitioner. In any event, the petitioner has been found guilty of a liaison with one of the two women mentioned in the charge sheet and the show-cause notice makes it clear that the order of dismissal was proposed only with respect to the charge which had been found established according to the report of the Inquiry Officer.

5. I see no force in this petition which fails and is dismissed. As the petitioner has been dismissed from service, I would not award any costs in this case.