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RAJINDER GOEL

v.

HIGH COURT OF PUNJAB AND HARYANA & ANR.

(Writ Petition (Civil) No. 696 of 2021)

B

AUGUST 02, 2021

[UDAY UMESH LALIT AND AJAY RASTOGI, JJ.]

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High Court: Judicial officer – Unexplained huge financial transactions – Recommendation made by the Full Court of the High Court for compulsory retirement of the petitioner from the post of Additional District and Sessions Judge – On appeal, held: There were multiple transactions showing deposits and withdrawals of substantial amounts of money, it cannot be said that the Full Court was not justified in taking the view that it did – Judicial service – Judicial ethics – Haryana Civil Services (Punishment and appeal) Rules, 1987.

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Rules of the Court, 1952: Chapter III; rule 1 – Recommendation made by Administrative Committee – Jurisdiction of Full Court to take different view in the matter – Scope of – Discussed.

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State of Uttar Pradesh v. Batuk Deo Pati Tripathi and another (1978) 2 SCC 102 : [1978] 3 SCR 131– referred to.

Case Law Reference

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[1978] 3 SCR 131

referred to

Para 9

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No.696 of 2021.

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Under Article 32 of The Constitution of India

Manoj Swarup, Sr. Adv., Aditya Soni, Advs. for the Petitioner.

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The following Order of the Court was passed:

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O R D E R

UDAY UMESH LALIT, J.

1. The instant petition under Article 32 of the Constitution of India has been filed seeking appropriate writ, order or direction in the nature of *Certiorari* quashing :-

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- a) the recommendation dated 14.12.2020 made by the Full Court of the High Court¹ recommending compulsory retirement of the petitioner from the post of Additional District and Sessions Judge; and
- b) order dated 05.01.2021 passed by the Governor of Haryana accepting the recommendation made by the Full Court of the High Court¹ and directing compulsory retirement of the petitioner with immediate effect.

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2. The petitioner joined Haryana Judicial Services on 16.02.1996 and was promoted in 2008 to the Haryana Superior Judicial Services. Pursuant to certain complaints made against the petitioner, including one made by the Bar Association, an enquiry was conducted, during the course of which the petitioner was asked to furnish statements regarding his bank accounts and property for the years 2006 to 2009. A preliminary report dated 21.04.2011 found that there was no documentary evidence regarding allegations of land purchases. It was, however, observed that there were “heavy unexplained bank transactions”. The report was reviewed by the Administrative Committee of the High Court¹ on 03.08.2011, which decided to initiate disciplinary proceedings against the petitioner and recommended that the petitioner be put under suspension. On 05.08.2011 the Full Court ordered that the Vigilance/ Disciplinary Committee proceedings be initiated against the petitioner and that the petitioner be suspended till the proceedings were concluded.

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3. On 26.04.2012, a charge-sheet was served upon the petitioner accusing him of conduct against judicial ethics inasmuch as he had deposited and withdrawn large sums of money without giving any specific reason for that. The petitioner replied to those charges submitting *inter alia* that those irregular deposits in his accounts were from the maturity amounts of his LIC policies, sale of properties which were acquired by

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¹ High Court of Punjab and Haryana

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- A him before he entered the judicial service, maturity of PPF accounts and other bank bonds. The Inquiring Authority submitted a report on 23.05.2016 finding the petitioner guilty of unexplained transactions.

4. Accordingly, a show cause notice was issued to the petitioner on 29.08.2016, which was replied to by the petitioner on 15.02.2017.

- B The matter was looked into by the Vigilance/Disciplinary Committee of the High Court¹ which found that the charges levelled against the petitioner were not proved and recommended that he be cleared of all the charges. The matter was, thereafter, placed before the Full Court of the High Court¹ which resolved in its meeting dated 04.02.2019 that the matter be referred back to the Vigilance/Disciplinary Committee to scrutinize the property statements of the petitioner and the matter be put up before the Full Court thereafter. Consequently, the matter was gone into by the Vigilance/Disciplinary Committee, which submitted its report on 18.12.2019.
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- D 5. The matter was placed before the Full Court. The Full Court in its meeting dated 14.12.2020, after full deliberation, rejected the report dated 18.12.2019 of the Vigilance/Disciplinary Committee and resolved as under:-

- E “The matter has been considered along with the note of the Registrar General. After considering the Regular Departmental Enquiry Report dated 23.05.2016, reply dated 15.02.2017 submitted by the officer to the show cause notice dated 29.08.2016, both on the aspect of acceptance of Enquiry Report as well as the proposed penalty, we find that the Inquiry Authority has rightly rejected, for the reasons recorded, the defence plea raised by the delinquent
- F Officer regarding retaining huge amounts of cash in hand for the substantial periods in the financial years concerned, after admitting the withdrawals and deposits from the accounts specified in the Articles of Charge, which required no further proof. Accordingly, the report dated 17.10.2018 as well as the decision dated 18.12.2019 of the Hon’ble Vigilance/Disciplinary Committee are
- G not accepted. Keeping in view the findings of the Inquiry Authority, which have been hereby accepted, the gravity of the matter and standards of ethics required of a Senior Judicial Officer, it is resolved that major penalty of compulsory retirement be imposed upon the delinquent Officer under Rule 4(1)(viii) of the Haryana
- H Civil Services (Punishment and Appeal) Rules, 1987

[Corresponding Rule 4(b)(v) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016] and a recommendation be made to the Government of Haryana that the Officer be compulsorily retired from service with immediate effect.” A

6. An order was, thereafter, issued by the Competent Authority on 05.01.2021 compulsorily retiring the petitioner as a measure of penalty from the membership of Haryana Superior Judicial Service. B

7. The petitioner has approached this Court by filing a writ petition under Article 32 of the Constitution and since a remedy under Article 226 of the Constitution was available to him, it was suggested that a writ petition under Article 226 of the Constitution before the High Court would give him adequate and fuller remedy. C

8. Shri Manoj Swarup, Senior Advocate for the petitioner, after seeking instructions from his client made it clear that the petitioner would like to pursue the present writ petition filed under Article 32 of the Constitution. We, therefore, proceeded to hear the learned counsel for the petitioner on merits. D

9. Mr. Manoj Swarup, learned Senior Advocate submitted :-

a) Two Reports of the Committee dated 17.10.2018 and 18.12.2019 had found nothing against the petitioner. In the circumstances, the Full Court could not and ought not to have recommended compulsory retirement of the petitioner; and E

b) Once the Committee had concluded that there was nothing against the petitioner, such conclusion was “for and on behalf of the Full Court” of the High Court. Reliance in support of the submission was placed on the Constitution Bench decision of this Court in *State of Uttar Pradesh vs. Batuk Deo Pati Tripathi and another*². F

10. In *Batuk Deo*², Rule 1 of Chapter III of Rules of Court, 1952 framed by the Allahabad High Court specifically stated that the Administrative Committee appointed in terms of said Rule ‘shall act for the Court’. In the context of said Rule, this Court observed as under:- G

“18. ... We have pointed out above that the amplitude of the power conferred by Article 235, the imperative need that the

² (1978) 2 SCC 102

A High Courts must be enabled to transact their administrative business more conveniently and an awareness of the realities of the situation, particularly of the practical difficulties involved in a consideration by the whole court, even by circulation, of every day-to-day matter pertaining to control over the District and subordinate Courts, lead to the conclusion that by rules framed under Article 235 of the Constitution the High Courts ought to be conceded the power to authorise an Administrative Judge or an Administrative Committee of Judges to act on behalf of the Court. Accordingly, we uphold the minority judgment of the Full Bench that Rule 1 of Chapter 3 of the 1952 Rules framed by the Allahabad High Court is within the framework of Article 235. The recommendation made by the Administrative Committee that the respondent should be compulsorily retired cannot therefore be said to suffer from any legal or constitutional infirmity.”

D 11. The quoted portion from para 18 of the decision discloses that this Court accepted that for the convenience of transacting administrative business and for smooth functioning of day-to-day matters pertaining to control over the subordinate judiciary, it would be possible for the High Court to authorize and empower an Administrative Judge or an Administrative Committee of Judges to act on behalf of the Court. It was in the context of such specific authorization in favour of the Administrative Committee in terms of Rule 1 of Chapter III of Rules of Court, 1952, framed by the High Court, that the recommendations made by the Administrative Committee were found to be without any constitutional infirmity.

F 12. It does not however mean that even in the absence of Rules authorizing or empowering the Committee, the decision made by or conclusions arrived at by the Committee would be binding on the Full Court or that the Full Court would not be within its jurisdiction to take a different view in the matter. The submission advanced by Mr. Swarup therefore, must be rejected.

G 13. Considering the facts and circumstances on record and in view of the record indicating that there were multiple transactions showing deposits and withdrawals of substantial amounts of money, it cannot be said that the Full Court was not justified in taking the view that it did. We do not find any reason to take a different view in the matter.

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14. It must be stated that the petition was heard and the order was reserved on 27.07.2021. Next day an application was preferred submitting that the petitioner be allowed to withdraw the instant petition with further liberty to approach the High Court invoking its jurisdiction under Article 226 of the Constitution of India. Since the suggestion made by this Court as stated earlier was not accepted after due instructions from the petitioner, we reject the prayer. A B

15. As we see no merit in this petition, the same is accordingly rejected.