

Case Report

Medicolegal Injury Report Writing: Lessons to be Learnt by Doctors: A Case Report

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ABSTRACT

A petition was filed before Punjab and Haryana High Court by a doctor for quashing of the order of suspension dated 18.6.1993 by which the petitioner (Doctor) was dismissed from service on the ground that it has been found that he was guilty of changing the Medico Legal Report and tampering with it and thus having conducted himself irresponsibly, while on Government duty. It was contended that the mistake in the Medico Legal Report was a result of inexperience being his first posting on permanent basis, therefore, the order of the dismissal was not justified and that he was only a Medical Officer whereas the Resident Medical Officer was to prepare the Medico Legal Report but was on leave on that date and, therefore, the petitioner could not be held responsible. This paper deals with issues related to preparation of Medicolegal Injury report, lapses in report, tempering of injury report, not mention of weapon, cutting, over writing etc. and its impact on outcome of case i.e. acquittal of alleged accused. Power of Disciplinary Authority and relevant case laws has been discussed in brief. What are legal consequences of tempering and inadequacies in preparing medico legal reports? Aim of this research paper is to create awareness among young doctors about their role in preparing a legal document /report and to avoid legal action against them by taking all precautions.

Keyword: Medicolegal injury report, Tempering, Misconduct, Disciplinary authority

Background of the Case

The present petition has been filed for quashing of the order dated 18.6.1993 (Annexure P-9) by which the petitioner was dismissed from service on the ground that it has been found that he was guilty of changing the Medico Legal Report and tampering with it and thus having conducted himself irresponsibly, while on Government duty. [Para 1] The ground for challenging the order is that this Court vide order dated 18.8.1993 (Annexure P-7) passed in Criminal Misc. No. 11834-M of 1991 expunged the remarks against him given by the

Addl. Sessions Judge, Patiala in his judgment dated 22.9.1986 (Annexure P-4) which the basis of arriving at the conclusion for dismissing the petitioner from service. [Para 2]

Facts of the Case

The pleaded case of the petitioner was that he had qualified the M.B.B.S. Examination from Government Medical College, Patiala in 1974 and had joined service as Medical Officer on 1.7.1976 on adhoc basis. He was appointed on regular basis on 25.3.1980. His first posting

was in E.S.I. Dispensary, Rajpura and the controversy arose when he was posted at the Subsidiary Health Centre, Devigarh in District Patiala where he had prepared Medico Legal Reports of three persons, namely, Jaswant Singh, Harnek Singh and Smt. Gurdev Kaur on 12.6.1985 [Para 3].

FIR and Charge Sheet and Trial

In pursuance of the medical examination conducted, 23 persons were charged in FIR No.20 dated 12.6.1985 and tried under Sections 148,307,309,109,324,149,323/149 IPC by the Addl. Sessions Judge, Patiala in which the petitioner's statement was recorded as PW-2. The trial Court thereafter delivered the judgment dated 22.9.1986 (Annexure P-4) wherein it passed certain strictures against him which were without affording an opportunity to explain his position. On the basis of the said strictures he was placed under suspension vide order dated 13.7.1987 and was only reinstated on 22.7.1988. Thereafter, a charge sheet was issued to him on 15.9.1989 to which he submitted reply (Annexure P-6).

Observations of The Session Court

The Addl. Sessions Judge, Patiala concluded that lot of bungling was done by medical officer during preparation of medicolegal reports of injured person to make out a case that the injured had received fire-arm injuries. Petitioner had admitted before court that he made an addition to the words "cannot be ruled out" in Ex. PG after writing the remaining contents of the opinion subsequently by deleting some words pertaining to Medico Legal Report of Harnek Singh.

Similarly, in the report of Gurdev Kaur, Ex. PD he had described the injuries No. 2 and 3 to have been caused with sharp edged weapon and after scoring off the word "sharp" he added the words "kept under observation" but later on showed it as having been caused by fire-arm. He had further admitted that he had described the nature of injuries no.1 and 2 on her person as simple and thereafter scored it off where it existed as originally recorded in Ex. PD.

There was a cutting in the date of arrival in Ex. PG and there was over writing in the time of examination in Ex. PD. Two loose sheets relating to the Medico Legal Examination of Jaswant Singh were found in Medico Legal Register which were marked as Ex. DB and Ex. DC which he had admitted in his own hand which pertained to Medico Legal Report No.18 of Jaswant Singh who was thereafter again medically examined vide Medico Legal Report No.21 of the Medico Legal Register. Strictures were also passed against Dr. Gandarv Singh, Radiologist also. Accordingly, his conduct was outrightly deprecated as unbecoming of a person belonging to a noble profession. The accused were also given the benefit of doubt and acquitted [Para 9].

Appointment of Inquiry Officer and Inquiry Report

On the basis of the said remarks, a show cause notice dated 15.9.1989 was issued against the petitioner under Section 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. Accordingly, the list of charges against him which he was to defend reads as under:

- Tampering with the medico legal record and overwriting on it.
- Having unfair character and irresponsibility while on Government duty." [Para 10]

Plea of In-Experience

The petitioner submitted his reply to the said charge sheet and took the plea that it was a result of his inexperience and he had not conducted any medico legal examination prior to this case and due to which there were overwriting and cuttings. He pointed out that the judgment was based on conjectures and surmises and also termed it as a colored judgment to be read with a pinch of salt. Fault was further laid with the police and that they should have been reprimanded for the lapses.

No Satisfactory Reply

The said reply, however, was not considered satisfactory and accordingly Dr. H.S. Aneja, the then Addl. Director, Health & Family Welfare, Punjab was appointed as

Enquiry Officer on 8.11.1990 to enquire into the charges and during the enquiry proceedings, the Criminal Misc. No.11834-M of 1991 was filed. The strictures recorded in the judgment which was challenged in para 7 of the petition were as under:

“The conduct of Dr. Jaspal Singh has, therefore, to be out rightly deprecated as unbecoming of a person belonging to a noble profession. And the medical evidence on record shows that a lot of bungling was done by Dr. Jaspal Singh (PW-2) who conducted medico legal examinations of the injured to make out a case that the three injured sustained firearms injuries....” [Para 11]

Case before Punjab and Haryana High Court

On the basis of the said charge sheet, enquiry proceedings were conducted and during the said proceedings he approached Punjab and Haryana High Court by filing Criminal Misc. No. 11834-M of 1991 for setting aside the strictures passed by the Addl. Sessions Judge, Patiala and vide order dated 18.8.1993 (Annexure P-7) adverse observations made against the petitioner were deleted from the impugned judgment. However, on the basis of enquiry report (Annexure P-8) he was dismissed from service prior to the order passed by this Court.

Relevant portion of the High Court Judgment

The learned counsel for the State of Punjab has pointed out that a departmental enquiry is also pending against the Medical Officer. At the same time it also appears to be pending against the Radiologist whose report was relied upon by the petitioner. In the circumstances of the case, it is held that the learned trial Court was not justified in condemning the petitioner while acquitting the accused. The conclusion is that the present petition is accepted and the adverse observations made against the petitioner-Medical Officer, which find mention in para No. 7 of the petition, are deleted from the impugned judgment” [Para 12].

But the petitioner had been charged with changing of Medico Legal Reports and tampering with it and having

conducted himself irresponsibly while on Government duty which was not the subject matter of the Criminal Misc. case. The said charge was gone into by the Enquiry Officer which was a separate set of proceedings and had nothing to do with the remarks passed by the trial Court which were expunged by High Court.

The said enquiry report was referred to the Punjab Public Service Commission and vide letter dated 23.4.1993, it had given its acceptance for dismissal of the petitioner. The petitioner was given an opportunity to present his version after giving him the copy of enquiry report and the reply submitted by him was not found satisfactory and keeping in view the seriousness of the proved charges, the order of dismissal was passed [Para 13].

Thus, it would be clear that the proceedings which were before High Court were on different set of circumstances regarding the allegations pertaining to the observations of his conduct which were unbecoming of a person belonging to noble profession mentioned in para 7 of the petition on one hand [Para 14]. The issue regarding the changing of medico legal record and tampering with it which was being proceeded on the departmental side was duly proved by examining the medico legal examination record and recording evidence of Manmohan Singh, Mohinder Singh and Vimal Kumari who had brought the said record which was the other set of proceedings [Para 14].

High Court did not go into the issues of inexperience of the petitioner. Even otherwise, a perusal of the record shows that the petitioner was working since 1976 whereas medico legal Examination in question was conducted in 1985 and in the examination-in-chief he himself had admitted that he had conducted about 90 medico legal examinations and, therefore, it would not lie in the mouth of the petitioner that he was inexperienced [Para 15].

Case Law Referred: Power of Disciplinary / Appellate Authority

The Apex Court in *B.C. Chaturvedi vs. Union of India and others* (1995) ^[3] held that it is not for this Court to

Table 1: Tempering in Injury Report, consequent Stricture /Adverse Comments by ASJ, Suspended from service by Disciplinary Authority

S.No.	Chronology of Events	Date	Remarks
1	Qualified the M.B.B.S. Examination from Government Medical College, Patiala in 1974	1974	
2	Joined service as Medical Officer on 1.7.1976 on adhoc basis.	01.07.1976	
3	Appointment as Medical Officer on regular basis	25.03.1980	
4	His first posting was in E.S.I. Dispensary, Rajpura and the controversy arose when he was posted at the Subsidiary Health Centre, Devigarh in District Patiala where he had prepared Medico Legal Reports of three persons, namely, Jaswant Singh, Harnek Singh and Smt. Gurdev Kaur on 12.6.1985. [Para 3]	12.06.1985	
5	FIR No. 20 dated 12.6.1985 and tried under Sections 148,307,309,109,324,149,323/149 IPC	12.06.1985	
6	The trial Court thereafter delivered the judgment dated 22.9.1986 (Annexure P-4) wherein it passed certain strictures against him which were without affording an opportunity to explain his position.	22.09.1986	
7	On the basis of the said strictures he was placed under suspension vide order dated 13.7.1987 and was only reinstated on 22.7.1988.	13.07.1987	Reinstated on 22.07.1988
8	Thereafter, a charge sheet was issued to him on 15.9.1989 to which he submitted reply (Annexure P-6).	15.09.1989	
9	He approached Punjab and Haryana High Court by filing Criminal Misc. No. 11834-M of 1991 for setting aside the strictures passed by the Addl. Sessions Judge, Patiala	1991	
10	Vide order dated 18.8.1993 (Annexure P-7) adverse observations made against the petitioner were deleted from the impugned judgment.	18.08.1993	Expunged adverse comments
11	He filed several representations seeking reconsideration and consequential reinstatement on 27.8.1993, 13.9.1993 and 10.3.1994 (Annexures P-10 to P-12)	27.8.1993, 13.9.1993 & 10.3.1994	27.08.1993 Legal Notice
12	Final Judgment of Punjab and Haryana High Court	04.10.2013	

Source: Compiled from case titled: Dr. Jaspal Singh vs. The State of Punjab, CWP No.14276 of 1994, Date of Judgment: 04.10.2013. Punjab & Haryana High Court.

tinker with the punishment imposed by the Departmental authorities. The relevant para reads as under:

A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline in Table 1. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. [Para 15]

High Court/Tribunal Power of Judicial Review

The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed or to shorten the litigation,

it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof.” [Para 15] Resultantly, no relief can be granted to the petitioner. Accordingly, the petition was dismissed [Para 16].

REFERENCES

- [1] Sandhawalia GS, J. Dr. Jaspal Singh vs. The State of Punjab, CWP No.14276 of 1994, Date of Judgment: 04.10.2013. Punjab and Haryana High Court.
- [2] Section 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970.
- [3] B.C. Chaturvedi vs. Union of India and others (1995) 6 SCC 749.

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