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remitting the case back to the Single Bench. It may be stated that those unreported decisions have not been relied upon by the petitioners' learned counsel before us and it is conceded that law has since been amended.

I may in passing observe that in my referring order, I had suggested an early hearing of this writ petition, if possible, within two weeks. This was done because I am aware of some more cases pending in this Court in which this precise point was raised and it was considered that this petition should be disposed of as speedily as possible. It is unfortunate that this petition should instead of two weeks have taken nearly 11 months to be disposed of. It is hoped that in future attempts would be made to expedite the hearing of cases in which such directions are made in the referring orders.

For the foregoing reasons, this petition fails and is dismissed, but without costs.

PREM CHAND PANDIT, J.—I agree.

B.R.T

CIVIL MISCELLANEOUS

Before Shamsher Bahadur, J.

THE MUNICIPAL COMMITTEE, AMBALA CITY,—*Petitioner*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents*

Civil Writ No. 242 of 1966

July 20, 1966

Punjab Municipal (Executive Officer) Act (II of 1931)—S. 3—Municipal Account Code—Rules XVI. 1 and XVI. 4—Executive Officer—Whether entitled to contribution to provident fund by the Municipal Committee.

Held, that an Executive Officer holding a Substantive post within the meaning of Rule XVI. 1 of the Municipal Account Code is entitled to the contribution from the Municipal Committee to his Provident fund under Rule XVI. 4 of the Code.

Petition under Article 226 of the Constitution of India, praying that a writ of certiorari, mandamus or any other appropriate writ, order or direction be issued quashing the order of the respondent No. 2, dated 3rd November, 1965.

ANAND SARUP AND R. S. MITTAL, ADVOCATES, for the Petitioner.

RAJINDER SACHAR, ADVOCATE, for the ADVOCATE-GENERAL AND D. N. AGGARWAL WITH B. N. AGGARWAL AND G. R. MAJITHIA, ADVOCATES, for the Respondents.

ORDER

SHAMSHER BAHADUR J.—This petition under Article 226 of the Constitution by Shri Raghurib Sharan Sharma as President of the Municipal Committee, Ambala City, is directed against the order (Annexure E) passed by the second respondent (Deputy Commissioner, Ambala) on 3rd of November, 1965, suspending resolution No. 2 of the Municipal Committee, Ambala City, of 14th of September, 1965, denying to its Executive Officer, Hari Kishan Bhatnagar, the third respondent, the benefit of the Committee's contribution to provident fund since his appointment in 1951. The resolution was suspended by the second respondent in the purported exercise of his powers under section 232 of the Punjab Municipal Act.

The third respondent was appointed an Executive Officer of the Municipal Committee, Ambala City, on 20th of September, 1951, for a period of five years in the grade of Rs. 250—25—350, with an additional dearness allowance at Government rate of Rs. 50. Other allowances were also being drawn by the Executive Officer since his appointment including a contribution to the provident fund. It appears that both the Executive Officer and the Municipal Committee contribute equally in this fund and this practice has been in vogue since 1934, even before the third respondent was appointed to the post.

A new Municipal Committee of Ambala City was elected in May, 1964. In its meeting of 14th of September, 1965, resolution No. 2 was passed that the third respondent had never been entitled to provident fund contribution, therefore, the entire fund contributed from the municipal fund towards the provident fund account of this officer should be transferred from the provident fund account to

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municipal fund. In other words, the third respondent was called upon to repay what he had received by way of contribution to his provident fund from the Municipal Committee, Ambala, ever since his appointment. The second respondent suspended this resolution and the reasons are given in detail in the impugned order passed by him on 3rd November, 1965. *Inter alia*, it is stated in Annexure E that the Punjab Government had approved the contribution which had been made for Executive Officers in the various municipalities and the Municipal Committee had no warrant to pass the resolution directing the Executive Officer to refund what he had received as contribution from the Municipal Committee. To challenge this order of the Deputy Commissioner, the President has come to this Court on behalf of the Municipal Committee, Ambala City, in *Certiorari* proceedings.

Mr. Anand Swaroop, the learned counsel for the petitioner, contends that there is no power vesting in the Municipal Committee to grant contributions to the provident fund for an Executive Officer. He invites my attention to Punjab Municipal (Executive Officer) Act, more particularly to section 3 which deals with the appointment and pay of the Executive Officer. The Executive Officer has to be appointed by a resolution of the municipality to be passed by not less than five-eighths of the total number of members constituting the committee and the remuneration of the Executive Officer under sub-section (6) "shall be payable by the committee from the municipal fund". The Executive Officer can likewise be suspended when a similar majority passes a resolution to this effect. It is submitted that a Municipal Committee has to pass a resolution before an Executive Officer can be held entitled to the contribution to his provident fund which had been drawn by the third respondent even since his appointment. It is worthy of note that one of the pay bills in 1956 including this contribution was signed by the petitioner himself when he was President of the Municipal Committee.

It has been ruled in a Division Bench authority of this Court in *Kishori Lal Batra v. The Punjab State and another* (1), that:—

"An Executive Officer appointed under the Punjab Municipal (Executive Officer) Act, 1931, is neither a servant of the Government nor a municipal servant appointed under the

(1) I.L.R. 1958 Punj. 1804=A.I.R. 1958 Punj. 402.

provisions of the Punjab Municipal Act, but he is a creature of the statute, under which he had been appointed and it is not permissible to go outside that statute or the rule framed thereunder for any matters governing his appointment, punishment, suspension or removal."

It is sought to be deduced from this authority that the Act does not provide for payment of contribution for provident fund, though Mr. Anand Swaroop concedes that in some cases this may be permissible if a resolution of the committee has been passed. As pointed out earlier, the contribution to provident fund has been the normal practice since 1934. There is a letter of the Punjab Government of 21st of November, 1934, addressed to the Accountant-General, Punjab (Annexure R4) which says :—

"Executive Officers, appointed for a term of three to five years have been held by the Punjab Government to be holding a substantive post within the meaning of rule XVII(e) of Municipal Account Code. They are accordingly entitled to subscribe to the Municipal Provident Fund."

The appointment of the third respondent had been renewed from time to time and it is not disputed that he is holding his appointment under valid resolutions of the Municipal Committee. Under rule XVI. 4 (Chapter XVI of the Municipal Account Code) "the committee shall contribute to the provident fund of each subscriber at the rate of six and a quarter per cent of his salary". In the earlier rule XVI. 1, the letter of the Punjab Government issued on 21st November, 1934, is mentioned and according to this decision an Executive Officer is to be treated to be holding a substantive post within the meaning of Chapter XVI which deals with Provident Fund. It seems plain to me that an Executive Officer holding a substantive post within the meaning of rule XVI. 1 is entitled to contribution from the Municipal Committee under rule XVI. 4. This right has never been denied to the third respondent since his appointment and indeed from the written statement filed on behalf of the Punjab State it appears that "all the Executive Officers in the State are enjoying this benefit being in lieu of pension or/and gratuity."

The matter can be looked in another way. The Municipal Committee under an implied contract had undertaken to contribute

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to the provident fund of the Executive Officer in pursuance of the letter of 1934 and this practice has been mentioned as a rule of procedure in the Municipal Account Code. Nothing has been shown that the third respondent as an Executive Officer is be precluded from the benefit which has been conferred in the Municipal Account Code. The second respondent in the impugned order has given in detail the reasons which impelled him to suspend the resolution which was passed by a majority of the Municipal Committee. There is nothing unlawful or illegal in the action of the Deputy Commissioner who under section 232 of the Punjab Municipal Act "may by order in writing, suspend the execution of any resolution or order of a committee.....if, in his opinion the resolution, order or act is in excess of the powers conferred by law or contrary to the interests of the public or likely to cause waste or damage of municipal funds or property.....". I see no substance in the argument of Mr. Anand Swaroop that the Deputy Commissioner has acted beyond the scope of his authority as no wastage or damage of municipal funds was involved in the passing of the resolution which has been suspended. In fact, the resolution in question, according to the counsel, had protected the municipal fund from further "inroads". It is to be observed that the Deputy Commissioner is entitled equally to act under section 232 if the resolution is in excess of powers conferred by law or is contrary to the interests of the public. It is plain denial of justice to withhold payment of contribution to provident fund when in all Municipal Committees it has been paid under orders of Government since 1934. The petitioner himself has been a party to its payment in 1956. Some of the documents filed by the third respondent, Annexures R. 8 to R. 11, further show that advances had been made by the Municipal Committee to the third respondent on the strength of the amount of his provident fund which included contributions of the Municipality. These documents go a long way to show that there was a subsisting and valid consent of the Municipal Committee to pay its contribution for the provident fund of his Executive Officer. The third respondent was entitled to receive and accept the contribution from the committee, both by virtue of the provisions of the Municipal Account Code and past practice. To pass a resolution with retrospective effect was in the circumstances neither a just nor a lawful course to adopt by a body like the Municipal Committee and the Deputy Commissioner was fully justified to suspend the resolution.

I see no force in this petition which fails and is dismissed with costs.

K.S.K.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.
RATTAN CHAND,—Petitioner
versus

THE DEPUTY COMMISSIONER, GURDASPUR AND ANOTHER,—*Respondents*

Civil Writ No. 589 of 1966

July 21, 1966

Registration Act (XVI of 1908)—S. 69(1)(bb)—Punjab Document Writers Licensing Rules (1961) framed under—Rule 15—Whether ultra vires—Order giving no reasons—Whether liable to be quashed—Order suspending licence for a period extending beyond its expiry—Whether can be made.

Held, that rule 15 of the Punjab Document Writers Licensing Rules, 1961, is perfectly valid and is neither *ultra vires* Article 14 of the Constitution nor otherwise unconstitutional. This rule clearly prescribes the authorities in whom the power to punish is vested. The rule does not leave the grounds on which a person can be punished to their sweet will or unfettered discretion. The authority to punish is only for breach of any of the conditions of the licence which have themselves been set out in clause 'a' to 'o' of rule 14 of the Punjab rules. Rule 15 makes it incumbent on the punishing authority to afford an opportunity of being heard before punishing the defaulter. The rule goes to the length of prescribing two possible punishments which can be inflicted on the accused petition-writer. Nothing more appears to be required for making a rule to conform to the principles of natural justice, and to save it from being violative of the rule of law or the equal protection of laws. Nor can rule 15 be said to be violative of the rule of law because no provision for any appeal or revision being filed against the order imposing punishment under that rule has been made either in the Punjab rules or in the Act.

Held, that an order of punishment passed under rule 15 of the said Rules is not liable to be set aside on the ground that the findings recorded by the punishing authority against the petitioner are not supported by any reasons for an order which is final and against which no appeal or revision is provided need not be made a speaking order by quasi-judicial or administrative Tribunals in every case.

Held, that the maximum period for which a petition-writer's licence can be suspended under rule 15 of the Punjab rules, is the period for which the licence