

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.10230 of 2013 (O&M)
Date of Decision: May 15, 2015

Sher Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Sudarshan Goyal Advocate &
Mr.Rahul Jain, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The petitioner was appointed as a Forest Guard and is governed by the Haryana State Forest Executive Section (Group C) Service Rules, 1998. On the basis of some allegations, the petitioner was served with a charge-sheet and was called upon to file reply to the charge sheet. Having found the reply not satisfactory, an Enquiry Officer was appointed and the Enquiry Officer, vide his report dated 12.2.2008 (Annexure P-4) proved the charges partly against the petitioner. The punishing authority, before imposing the punishment, issued show cause notice, which was duly replied and vide impugned order dated 1.3.2009 (Annexure P-7), imposed the

punishment of dismissal from service and also ordered recovery of the alleged loss suffered by the Government.

The petitioner, as per Rule 15 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987, filed an appeal before the statutory authority, which is having a rank of Conservator of Forest.

It is a matter of record that during the interregnum, the punishing authority was promoted as Conservator of Forest and vide impugned order, dismissed the appeal of the petitioner. It is settled law that no person can be judge of his own cause. Respondent No.4 ought not to have heard the appeal of the petitioner as being himself the punishing authority and should have referred back the appeal. The petitioner also stated to have filed second appeal as per the Statute before respondent No.3, but the same also met with the same fate vide order dated 2.5.2010 (Annexure P-11). Be that as it may, the fact remains that no person can be judge of his own cause. The petitioner has lost the right of being heard unbiasedly as the first Appellate Authority was none else but the punishing authority. Thus, the impugned order dated 1.3.2009 (Annexure P-7), whereby the appeal of the petitioner has been dismissed, is not sustainable in law. Accordingly, the same is set-aside.

Since the order passed by the first Appellate Authority was suffering from inherent defect, the subsequent order dated 2.5.2010 (Annexure P-11) dismissing the second appeal is also not maintainable and is liable to be set-aside. Accordingly, the same is also set-aside.

The matter is remitted back to the first Appellate Authority, i.e., Conservator of Forest, West Circle, Hisar, who shall decide the appeal of

the petitioner in a most pragmatic manner by passing a speaking and detailed order after giving an opportunity of hearing to the petitioner.

It is expected that the first Appellate Authority, i.e., the Conservator of Forest, West Circle, Hisar shall pass the order in accordance with law as expeditiously as possible, preferably within a period of four months from the date of receipt of certified copy of this order.

Accordingly, the writ petition is disposed of.

May 15, 2015
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(AMIT RAWAL)
JUDGE