

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20224 of 2015

DATE OF DECISION: SEPTEMBER 22, 2015

SURINDER KUMAR

...PETITIONER

VERSUS

BHARAT SANCHAR NIGAM LTD. & ORS.

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: MR. SHUBHAM AGGARWAL, ADVOCATE &
MR. BRAJESH KUMAR SINGH, ADVOCATE
FOR THE PETITIONER.

M. JEYAPPAUL, J.

1. The writ petitioner who joined the services of BSNL as Junior Accounts Officer on 24.5.2004 refused to register his name on the Biometric Machine on 2.4.2011 in spite of the direction issued to him. He was served with a show cause notice on 5.5.2011 to explain as to why the period from 11.4.2011 to 21.4.2011 and 27.4.2011 to 4.5.2011 (14 working days) be not treated as "*Dies-non* with break in service". The writ petitioner challenged the authority of the Accounts Officer (PC) to issue such a show cause notice. Thereafter, the disciplinary proceedings were initiated as against him under BSNL Conduct, Discipline & Appeal Rules, 2006 (for short 'Rules'). The respondents passed an order on 27.5.2011 directing the period from 11.4.2011 to 21.4.2011, 27.4.2011 to 4.5.2011 and 5.5.2011 to 26.5.2011 (total 36 days) be treated as *Dies-non*. An appeal was preferred as against

the order passed by the Appointing Authority by the petitioner which was rejected by the appellate Authority.

2. Heard the submissions made by learned counsel appearing for the petitioner.

3. First of all, the order of treating the period as *Dies-non* is not one of the punishments prescribed under the Rules. Neither his seniority nor his career progression or retirement entitlement would be affected by such an order passed by the Authority.

4. Further, it is a well settled position of law that unless the procedure prescribed for conducting disciplinary proceedings was breached or the principles of natural justice were not adhered to or extraneous considerations had crept in the orders passed or the order was tainted by arbitrariness or capriciousness or the order was passed without any basis, the question of interfering with the orders passed by the Disciplinary Authority would not arise.

5. It was submitted by the learned counsel appearing for the writ petitioner that show cause notice was issued by the Accounts Officer (PC) who had no authority to issue the same. On a careful perusal of the entire file, we find that it was only the Disciplinary Authority who has ultimately issued show cause notice for dereliction of duty, misconduct and indiscipline and passed the impugned order. Therefore, the initial show cause notice issued by the Accounts Officer (PC) does not have any impact on the proceedings initiated as against the writ petitioner by competent Disciplinary Authority.

6. We find that the Central Administrative Tribunal, Chandigarh Bench has rightly rejected the claim of the writ petitioner. There is no merit in the writ petition and the same stands dismissed.

(M. JEYAPPAUL)
JUDGE

September 22, 2015
Gulati

(DARSHAN SINGH)
JUDGE