

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

CWP No. 24431 of 2015
Date of decision: 26.11.2015

Tirath Chand Saroya

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Manish Dadwal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 30.10.2015 (Annexure P-16) whereby, he has not been given extension in service as Excise and Taxation Officer on account of the pendency of the charge sheet under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, as per the instructions.

Notice of motion.

Mr. R.S. Sidhu, AAG, Punjab accepts notice on behalf of the respondents. Requisite number of copies of writ petition have been supplied to him in Court.

It is the case of the petitioner that the charge sheet has been inquired into and as per the inquiry report dated 21.10.2015 (Annexure P-8), he has been exonerated. It has been held in the report that it was not an intentional mistake done with bad intention regarding the disallowance on account of the benefits given in the assessment orders, which was the subject matter of the charge sheet. It is accordingly submitted that the

respondents have yet to take a final decision on the inquiry report. Reliance is placed upon the judgment of a Division Bench of this Court in ***LPA No. 776 of 2015, Ashok Arora vs. State of Punjab and others***, decided on 20.05.2015 (Annexure P-18) to submit that a final decision be taken on the charge sheet and thereafter, in case of exoneration, reconsideration be done for the purpose of extension.

Relevant observations in *Ashok Arora's case (supra)* read thus:-

“Learned Single Judge has summarily dismissed the appellant's writ petition on the strength of his earlier decision dated 24.04.2015 rendered in CWP No.3826 of 2015 (Romesh Garg versus State of Punjab and others). The view taken by learned Single Judge appears to be the correct statement of law, hence, no elaborate discussion is required on that issue.

The case of the appellant, however, appears to be slightly different. He refers to the document (Annexure P-10) containing minutes of the meeting held on 31.03.2015, especially the details of disciplinary proceedings pending against him as mentioned therein. It appears that there were two charge-sheets served upon the appellant. In the first charge-sheet dated 23.09.2013, the Inquiry Officer has exonerated him but the Administrative Department is yet to take the final decision. As regard the second charge-sheet dated 18.02.2015 is concerned, the department itself has observed that the appellant was not posted in the Municipal Council, Nabha during the period when Government Instructions were allegedly violated.

Since the appellant has been denied extension in service for want of (i) final decision in the first charge-sheet by the Competent Authority and (ii) the decision

of the Competent Authority whether or not to proceed against the appellant in the second charge-sheet, we dispose of this appeal by modifying the order passed by the learned Single Judge, but without expressing any views on merits, with a direction to the State Government to take its final decision in respect of the charge-sheet dated 23.09.2013 within a period of one month from the date of receiving a certified copy of this order. Further, the Competent Authority shall within the above-stated period, decide whether the appellant is to be departmentally proceeded with pursuant to the 2nd chargesheet dated 18.02.2015. If the decision to be taken by the State Government exonerates the appellant, we see no reason on record to deny him extension in service.

Let the decision in that regard be taken within one month thereafter.”

Keeping in view the limited relief sought, this writ petition is disposed of with a direction to respondent no. 2 to take a decision on the charge sheet dated 04.05.2015 (Annexure P-6), in which the inquiry report has already been received. In case the petitioner is exonerated, the said respondent shall reconsider the issue of extension keeping in view the observations of the Division Bench as reproduced above. Needful be done within a period of 2 months from the date of receipt of certified copy of the order.

26.11.2015
shivani

(G.S. SANDHAWALIA)
JUDGE