

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

CWP No.3592 of 2015(O&M)

Date of decision: 28.08.2015

Harnam Singh Khosa

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present: Mr.R.K.Arora, Advocate, for the petitioner.

Mr. H.S.Sethi, Addl.A.G., Punjab
and Mr.Rakesh Verma, Sr.DAG, Punjab.

Mr.Sankalp Sagar, Advocate, for respondent No.4.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 16.02.2015 (Annexure P4) whereby the benefit of extension of one year of service, granted to the petitioner from 01.05.2014 to 30.04.2015, has been cut short on account of two chargesheets dated 06.03.2009 (Annexure P7) and 25.08.2011 (Annexure P8) issued under Rule 8 of the Punjab Civil Services (Punishment & Appeals) Rules, 1970, in view of the instructions dated 30.10.2014 (Annexure P5) and dated 07.01.2015 (Annexure P6).

Accordingly, the petitioner was to retire w.e.f. 28.02.2015, on account of instructions dated 30.10.2014 and 07.01.2015. The petitioner approached this Court and vide order dated 27.02.2015, was granted the interim protection, though the period of extension came to an end on 30.04.2015. It is apparent that he has continued in view of the orders of this Court. Thus, the present writ petition has become infructuous.

Counsel for the petitioner submits that in view of the fact that vide the enquiry report dated 13.01.2015 in the second chargesheet dated 25.08.2011, the petitioner has been exonerated and regarding the first chargesheet dated 06.03.2009 also, he has been found to be not associated with the misconduct as he was not posted with the Municipal Council, Jalandhar. Reliance is placed upon communication dated 10.07.2015 (Annexure P16). It is, accordingly, submitted that the petitioner's case is liable to be considered for the 2nd extension.

The argument of counsel for the petitioner is based on the strength of the decision of this Court in LPA No.776 of 2015 titled *Ashok Arora Vs. State of Punjab & others* decided on 20.05.2015. In the abovesaid case, in similar circumstances, there were two chargesheets and in one case, the employee had been exonerated whereas in the second chargesheet, observations had come in favour of the employee. Accordingly, the Division Bench had directed that decision be taken by the State Government regarding the second chargesheet. Relevant observations read as under:

“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.”

Accordingly, keeping in view the above facts in mind, the present writ petition is disposed of as having been rendered infructuous. However, the State Government/concerned Committee shall take into consideration the effect of the exoneration of the petitioner, within a period of 4 weeks. In case the petitioner is entitled for any benefit of second extension, further action will be taken within a period of 2 weeks, thereafter. In case any adverse order is passed against him, he will have liberty to challenge the same.

It is clarified that all the interim orders, passed in the present writ petition are hereby vacated.

28.08.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE