

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

Date of Decision: 31.5.2016

1. **CWP No.18985 of 2013 (O&M)**

Sher Singh ... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. & Ors ... Respondents

2. **CWP No.11618 of 2014 (O&M)**

Diljit Singh ... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. & Ors ... Respondents

3. **CWP No.8538 of 2014 (O&M)**

Diljit Singh ... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. & Ors ... Respondents

4. **CWP No.26298 of 2014 (O&M)**

Onkar ... Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. & Ors ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.R.S.Rai, Sr.Advocate with
Mr. Gautam Dutt & Mr. Navraj Singh Mahal, Advocate
for the petitioner
in CWP No.18985 of 2013
Mr.Deepinder Brar, Advocate
Mr.Pankaj Jain, Advocate
Mr. R.D.Sharma, Advocate
for the petitioner(s)

Mr.K.S.Sidhu, Sr.Advocate with
Mr.S.S.Brar, Advocate for respondents in CWP no.26298/2014

Mr.Anil Sharma, Advocate and
Mr.Ajay Lal Singh, Advocate for respondents no.1 & 2 in
CWP Nos.18985 /2013, 17618 , 8538, 7095/2014

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. The date of hearing of CWP Nos.18985 of 2013, 11618/2014, 8538/2014 and 26298/2014 is brought forward and the cases are taken up for final disposal today. This order will dispose of the aforesaid writ petitions as common questions of fact and law are involved in these petitions.

2. Heard. The only question raised in these petitions is to the effect that the Enquiry Officer who has crossed the age of 65 years could no longer conduct the enquiry. Therefore, he had to be replaced by another enquiry officer below that age. The petitioners have relied on instructions dated 11th June, 2001 which were withdrawn by instructions dated 26th July, 2001. The age bar was removed paving the way of pending enquiries to be concluded. Therefore, the argument does not sustain.

3. Mr.Anil Sharma, learned counsel points out that in CWP No.18985 of 2013 (Sher Singh vs. Punjab State Civil Supplies Corporation Ltd. and others), reliance was placed on an earlier petition being CWP No.15718 of 2013 and accordingly, in those cases, interim orders were passed that final order by the Enquiry Officer shall remain stayed. However, this argument will have no effect on these petitions since the instructions which made the Enquiry Officer ineligible to conduct enquiry after crossing the age of 65 years, have been withdrawn within less than two months by the Punjab Government. In those cases, these executive instructions have not

been placed on the record and the same have been appended with the reply affidavit filed by respondent no.2 in which both the instructions dated 11th June, 2001 and dated 26th July, 2001 are appended as Annex. A-3 in CM No.5912 of 2016 filed in CWP No.19828 of 2014. Therefore, the petitions can not succeed on the basis of defunct instructions.

4. Another argument raised is that de hors the instructions dated 26th July, 2001, the Court should intervene in the enquiry proceedings and abort them for one reason or the other. The argument is noticed only to be rejected since the petitioners will have opportunity to plead innocence before the Enquiry officer and lead evidence in support of their cases. All pleas on law and facts will be available to them in their defence of the charges of misconduct levelled against them by the disciplinary authority in the department. Apart from this, no other ground is raised nor could possibly be to invalidate the enquiry proceeding at a premature stage. I have no doubt that the enquiry proceedings will be conducted and concluded without unnecessary delay and within reasonable time.

5. For the foregoing reasons, these petitions are found premature and are therefore dismissed.

31.5.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE