

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 15605 of 2012 (O&M)
Date of Decision: December 20, 2017

Arjun Singh

... Petitioner

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Chanderhas Yadav, Advocate,
for the petitioner.

Mr. Karan Bhardwaj, Advocate,
for the respondents.

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioner has prayed for the following relief:-

- “(i) A writ or direction, especially in the nature of certiorari quashing the order dated 06.07.2011 (P-4) passed by respondent No.3 vide which the respondent no.3 had illegally ordered for compulsory retirement of the petitioner and had awarded three more punishments, order dated 03.01.2012 (P-6) vide which the respondent No.6 had upheld the above said illegal order of the respondent No.3.
- (ii) Further a writ in the nature of certiorari for quashing/setting aside the inquiry report dated June 2011 (P-3).
- (iii) For issuance of a writ in the nature of mandamus directing the respondent authority to reinstate the

petitioner with immediate effect along with all consequential benefits which are admissible to the petitioner.”

2. Learned counsel for the respondents produced communication dated 13.12.2017 made by the respondents to him, which reads as under:-

“No. J.II.730/12-Legal

HQ NW Sector

CRPF

Dt 13 Dec 17

*Shri Karan Bhardwaj
Central Government Counsel
PB & HR High Court
Chandigarh.*

*Sub: CWP No. 15605 of 2012, Ex HC/GD Arjun Singh
vs. UOI & Ors before Hon'ble High Court of
Punjab and Haryana at Chandigarh.*

*Ref: Please ref your mail dt 16.11.17 and this HQ lr dt
20.11.17 and 11.12.17.*

Sir,

It is to inform you that as per provision contained in Standing Order 4/2004 and its amendment issued vide DG CRPF letter no. W.V. Inst/2004-Vig. dt. 25.05.2006, it is clearly mentioned that “In the preliminary hearing, the Chairperson may serve copy of complaint instead of gist of complaint to the alleged officer (in lieu of articles of charge) and he should formally be asked whether he pleads guilty or not based on the complaint”.

Since there is no provision to serve separate charge sheet, no separate charge sheet was served to the petitioner. Further, as per brief history provided by CRPF Academy, Kadarapur, during the course of enquiry, petitioner was given opportunity for cross examination with all witnesses. In addition to this, after completion of enquiry by the Sector Level Complaint Committee, petitioner was also given 15 days time to produce evidence, document in support of his defence, but since petitioner failed to prove

himself innocent, he was imposed punishment of “Compulsory Retirement from service”.

As regard issue of show cause notice, it is informed, that as per provision contained in Rule 27 of CRPF Rules 1955, there is no provision for giving a separate show cause notice to the delinquent before imposing any punishment, hence, no separate show cause notice issued to him before imposing punishment of “Compulsory Retirement”.

Sincerely,

*Rajesh Kumar
DC Legal.”*

3. Petitioner has been punished by imposing the penalty of compulsory retirement vide order dated 06.07.2011 which has been affirmed by the appellate authority.

4. Undisputedly, imposition of penalty of compulsory retirement and its affirmation by the appellate authority is without following the disciplinary rules. In other words, petitioner has not been charge-sheeted which was the allegations on which he has been retired compulsorily as a measure of penalty. In view of submissions made by the respondents' counsel and the fact that they have failed to comply the disciplinary rules before imposing the penalty, order of punishment dated 06.07.2011 (Annexure P/4) and appellate authority's order dated 03.01.2012 (Annexure P/6) are liable to be set aside. Accordingly, set aside. Petitioner is entitled to all consequential benefits during the intervening period from the date of compulsory retirement till reinstatement. Monetary benefits shall be calculated and disbursed to the petitioner within a period of four months from today while reinstating him at the earliest. This order will not come in the way of holding of an inquiry in accordance with the rules which governs

in respect of the petitioner.

5. With the above observations, petition stands allowed.

December 20, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking / reasoned : Yes

Whether reportable : No