

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11953 of 2014 (O/M)
Date of decision : 30.1.2017

Daya Nand Petitioner (s)
Versus
State of Haryana and another Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Naveen Singh Panwar, Advocate, for the petitioner.
Mr. Keshav Gupta, Assistant Advocate General, Haryana.
Mr. Ashok K. Chaudhary, Advocate, for respondent No. 2.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
- .- -.-

KULDIP SINGH J. (ORAL)

The petitioner, who was working as a Manager with respondent No. 2-HAFED, retired from service on 31.1.2014. He is stated to have been served three chargesheets between the years 2013 to 2015 i.e. one before his retirement and two after his retirement. The petitioner claims that nothing has been paid to him including the salary for the period from 1.8.2013 to 28.1.2014.

On the other hand, the learned counsel for respondent No. 2-HAFED states that on account of pendency of three inquiries, the DCRG has been withheld and that the department is legally competent to withhold the same. Regarding the salary, it is stated that during the pendency of the present writ petition, order (Annexure-R-4) has been passed on 26.10.2016, adjusting the salary against the Warehousing shortage recoverable. Since this order was passed during the pendency of the present writ petition, therefore, this Court can deal with its legality as the chargesheets are still pending and the guilt of the petitioner is yet to be proved.

CWP No. 11953 of 2014 (O/M)

The learned counsel for respondent No. 2-HAFED states that as per Rule 19 (1) (d) of the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988, (in short 'the Rules of 1988'), the recovery from the pay for whole or part of any pecuniary loss caused to respondent is permissible. However, it comes out that the inquiries are yet to be finalized. It is not the case of respondents that the order dated 26.10.2016 (Annexure-R-4) has been passed after issuing a show cause notice and adopting the procedure for minor penalties. Therefore, without following the procedure, no recovery from the pay is permissible even under Rule 19 (1) (d) of the Rules of 1988, which provides for minor penalties. Hence, the order dated 26.10.2016 (Annexure-R-4) is hereby quashed. Respondents are ordered to release the salary alongwith 9% per annum interest.

So far as the chargesheets are concerned, it is stated that in one chargesheet, the inquiry report has been submitted and two chargesheets are still pending.

Respondents cannot keep the inquiries pending for indefinite period. Therefore, they are directed to complete/conclude the inquiries within six months and pass the final order. However, this order shall be without prejudice to the rights of respondents to pass any punishment order, in accordance with the service rules, applicable to the petitioner, if the petitioner is found guilty in the inquiry.

In view of the above, the present writ petition is disposed of.

(KULDIP SINGH)
JUDGE

30.1.2017

sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	No