

CWP-15563-2013

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

**CWP-15563-2013 (O&M)
Date of Decision : 06.03.2017**

DHARAM VIR SINGH

..... Petitioner

Versus

THE STATE OF HARYANA AND OTHERS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Dr. Suresh Kumar Redhu, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

The petitioner was issued charge sheet for major penalty under Rule 7 but was imposed minor penalty of stoppage of one increment without cumulative effect. An order was also passed with regard to pay and allowances during the period of suspension.

A short submission made by learned counsel for the petitioner is that in similar circumstances the Full Bench of this Court in the matter of "Dr. K.G. Tiwari vs. State of Haryana 2002(4) SLR 329" decided on 20.12.2001 has held that the option of imposing minor punishment after issuing show cause notice is available to the Government but if a charge sheet under any major penalty has been issued then even to impose of minor penalty the Government will have to go through the enquiry. As per the learned counsel, in view of this decision the punishment order has to be set aside. He has also argued that since the petitioner was acquitted in the criminal case and the punishment order has to be set aside the petitioner

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would be entitled to all the pay and allowances for the period of suspension also.

Learned Assistant Advocate General has fairly accepted that the judgment in Dr. K.G.Tiwari's case (supra) would be applicable but has argued that impugned order has to be set aside and the matter would have to be remanded back to the Disciplinary authority for fresh decision as per the same judgment and the Disciplinary authority would have to then pass a fresh order on the issue of pay and allowances on the basis of the enquiry report for the period of suspension.

Learned counsel for the petitioner has accepted this fact.

Resultantly, the impugned order is set aside and the liberty is granted to respondents to either re-initiate the enquiry or issue a charge sheet under Rule 8 for minor penalty. The competent authority would also re-decide the issue regarding pay and allowances for the period of suspension on the basis of the finding of departmental enquiry. It is directed that departmental enquiry be concluded within a period of 6 months from the date of receipt of a certified copy of this order subject to the petitioner co-operating the same.

Petition stands disposed of.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

06.03. 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No