

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

114

CWP No.19758 of 2017

Date of decision: 01.09.2017

Sanjay Kumar

....Petitioner

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Piyush Bansal, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

Prayer in the present writ petition is for quashing of the notice dated 24.07.2017 (Annexure P-7), being contradictory to the Standing Order. (Annexure P-5).

Counsel submits that a major punishment of stoppage of 2 increments, with cumulative effect, was imposed on 18.07.2008 (Annexure P-1), which was reduced to one with temporary effect, by the Director General of Police, Haryana, vide order dated 16.07.2009 (Annexure P-3). Reference is made to the Standing Order dated No.127/2008 (Annexure P-5), to submit that the bar for promotion would be only if a major punishment is imposed during the last 2 years, immediately preceding the date of completion of the required years of service. It is, accordingly, submitted that the promotion order dated 14.12.2009 as Exemptee Head Constable, after completion of 12 years, which had been granted, is now sought to be withdrawn, after a period of almost 8 years.

Notice of motion.

Ms.Shruti Jain Goyal, AAG, Haryana accepts notice on behalf of the respondents. Copy of the paperbook has been supplied to her.

Challenge, as such, is only to the show cause notice dated 24.07.2017 (Annexure P-6) wherein, it has also been mentioned that the date of

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punishment is 18.07.2008, as it would relate back to the date of initial punishment. The petitioner has been asked to submit his reply which he has not done. In such circumstances, this Court is of the opinion that firstly, the petitioner is to give his response to the show cause notice issued and thereafter only, the respondents would proceed to decide the issue which has now been sought to be raked up, as noticed above.

Faced with this situation, counsel for the petitioner submits that the petitioner would file the reply within a period of one week from today, with respondent No.4.

Accordingly, if the needful is done, the said respondent shall take into consideration the same and thereafter, go on to decide whether the promotion is liable to be revoked, at this stage, keeping in view the above, within a period of 4 weeks on the receipt of such representation. However, keeping in view the fact that promotion order was passed on 14.12.2009, the petitioner would be entitled to continue on the promoted post, till a decision is taken on the same, if the said representation is filed within the prescribed time-period. It is made clear that in case no such representation is filed, the interim protection shall not continue.

With the above observations, the present writ petition stands disposed of.

01.09.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*