

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

CWP No. 12018 of 2015

Date of decision: 23.01.2018

Lakhmi Chand

...Petitioner

versus

State of Haryana and another

...Respondents

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

Present : Mr. Dinesh Kumar, Advocate for the petitioner.
Mr. Harish Rathee, Senior DAG Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India for quashing the charge-sheet dated 10.04.2013 (Annex. P-4) and the enquiry report dated 28.10.2013.

The short argument advanced by the learned counsel for the petitioner is that the order of the Punishing Authority dated 30.04.2014 imposing penalty of stoppage of two increments with cumulative effect by the impugned order passed by the Additional Director Administration and the order in appeal dated 15.12.2014 passed by the Director General Elementary Education, Haryana are deaf, dumb and blind. No personal hearing was given; the objections filed against the proposed punishment were not considered and dealt with in accordance with law; no reasons whatsoever have been recorded in inflicting penalty for the review court to know what weighed in the mind of the authorities to impose major punishment and uphold it an appeal by an equally laconic and cryptic order. The orders display no application of

mind. They have been passed in breach of the principles of natural justice. It is not possible to judicially review of two orders since the working of the mind of the authorities is not known.

Accordingly, both the impugned orders are found seriously wanting and have to be set aside and the case remitted to the disciplinary authority to pass a reasoned order afresh by going into the evidence recorded in the enquiry proceedings and discussing the same and arriving at findings after appreciating the materials on record and then to pass a final order on the objections filed by the petitioner to show why the punishment should not have been inflicted or it is too harsh and disproportionate to the gravamen of the charge, as the case may be.

As a result, this petition is partly allowed. The impugned orders are quashed. Having set aside the impugned orders a direction will issue to the disciplinary authority to pass a comprehensive order after hearing the petitioner on his objections within two months from the date of the receipt of the certified copy of the order.

The petitioner would be at liberty to file fresh self speaking objections as supplementary to the objections already filed. This chance is given to the petitioner to make it easier for the punishing authority to understand the case. The petitioner will have costs which are assessed at Rs. 25,000/- to be paid by the Department before the exercise of passing a fresh order starts. The amount be paid into the accounts of the Punjab

State Legal Services Authority, Mohali and receipt of payment be produced on the file of this case for making a report by the office that costs stand deposited.

(RAJIV NARAIN RAINA)
JUDGE

23.01.2018

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Whether speaking/reasoned : Yes

Whether reportable : No