

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

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**CWP No. 24477 of 2013 (O&M)
Date of decision: 31.08.2018**

Satnam Singh

...Petitioner

Vs.

State of Punjab and Ors.

...Respondents

CORAM:HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.P.K. Kataria, Advocate for the petitioner.

Ms. Kanika Sachdeva, AAG, Punjab.

JITENDRA CHAUHAN, J.(ORAL)

Prayer in the present petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Certiorari for quashing of disagreement note dated 22.06.2012 (Annexure P-6); order dated 28.02.2013 (Annexure P-8) whereby punishment of stoppage of two annual grade increments without cumulative effect has been imposed upon the petitioner; and order dated 01.07.2013 (Annexure P-10) whereby the appeal preferred by the petitioner against impugned order (Annexure P-8) stands rejected.

It is the case of the petitioner that while in service of the respondents as Driver, he was diagnosed with “Spondylotic changes in cervical as well as lumber spine”. In this regard, opinion of Civil Surgeon,

Amritsar was sought by respondent No. 3, who opined that on account of the disease suffered by the petitioner, his health condition may aggravate if he continues to drive heavy vehicles. Consequently, vide order dated 02.05.2008, passed by respondent No. 3, the petitioner was ordered to be put on light duty.

On 01.05.2011, there was a break down of a bus near Subhanpur and the petitioner was asked to tow that bus with another heavy vehicle. The petitioner informed that he was on light duty owing to his medical condition, therefore, he was unable to tow the vehicle. Taking note of the conduct of the petitioner, respondent No.3 got conducted a preliminary enquiry on 10.05.2011 and the petitioner was placed under suspension on the same day. On 23.05.2011, a charge sheet was issued against the petitioner. Vide enquiry report (Annexure P-5), the charges levelled against the petitioner were held to be 'not proved'. However, respondent No. 2 did not agree with the findings of the enquiry officer and recorded impugned disagreement note dated 22.06.2012 (Annexure P-6) calling upon the petitioner to submit his reply. Finding the reply so filed by the petitioner unsatisfactory, he was issued show cause notice dated 24.08.2012. Vide letter dated 20.09.2012 (Annexure P-7) the petitioner submitted his reply to the show cause notice. However, vide impugned order (Annexure P-8), the petitioner has been awarded punishment of stoppage of two annual grade increments without accumulative effect. The appeal preferred by the petitioner against impugned order (Annexure P-8) also stands rejected as time barred vide impugned order (Annexure P-10).

It is contended by learned counsel for the petitioner that the

impugned disagreement note (Annexure P-6) is bad in the eyes of law as the reasons for disagreement with the findings recorded by the enquiry officer were not supplied to the petitioner. It is further contended that in spite of the medical reports issued by the Civil Surgeon, Amritsar, which prohibits the petitioner to be put on heavy duty, he was being forced to drive a heavy vehicle for towing another vehicle. Learned counsel further contends that even if for the sake of argument, the punishment is accepted there is no legal justification for withholding full salary for the period of suspension as the punishment awarded is a minor punishment.

On the other hand, learned State counsel contends that the impugned order was passed by respondent No. 2 by following due procedure as laid down in the rules and regulations governing the service conditions of the petitioner. The petitioner was never asked to do any heavy work. He was only asked to tow the bus with the machinery which is a light work but the petitioner refused to perform the duty.

Heard.

It is to be noticed that the petitioner died during the pendency of the writ petition and his legal representatives were brought on record vide order dated 09.11.2016.

Towing of bus with the machinery cannot be said to be heavy work as alleged by the petitioner particularly when there is no medical evidence with regard to health status of the petitioner after 02.05.2008. The incident pertains to 01.05.2011. He refused to perform the duty and committed defiance of his superiors. The punishment of stoppage of two annual grade increments without cumulative effect by no stretch of

imagination is disproportionate punishment and rather the same is commensurate to the misconduct committed by the petitioner. The prayer for grant of full pay for the period of suspension can also not be accepted as the petitioner was placed under suspension on account of his misconduct.

Finding no merit in the instant petition, the same is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

August 31, 2018
Poonam (II)

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*