

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

**CWP No.17023 of 2017
Date of decision: 07.08.2018**

Sumer Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

Ritu Bahri, J.

This petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari quashing the order dated 07.04.2017/01.05.2017 (Annexure P-4), whereby petitioner has been demoted to the post of Assistant Professor and his basic pay has been fixed at par with new recruits.

The petitioner was appointed as Lecturer in Hindi on 13.12.1989. Later on, he was re-designated as Associate Professor in the year 2006. A charge sheet was issued to the petitioner on 27.12.2011 with the allegation that on 10.04.2010, he had kidnapped Ms. Reenu Sharma, a student of B.A-1 and kept her in illegal confinement forcibly. Sh. Ishwar Singh, father of the girl student, made a complaint dated 12.04.2010 to the Police Station, Barwala, Hisar. After giving reply to the charge sheet, Sh. O.P. Gupta, District and Sessions Judge (Retd.) was appointed as Enquiry Officer, who gave his enquiry report on 19.02.2013 (Annexure P-1). Thereafter, a show

cause notice dated 13.09.2013 (Annexure P-2) was issued to the petitioner calling him as to why he should not be removed from service. The petitioner submitted his reply (Annexure P-3) to the show cause notice. Thereafter, he made a request for personal hearing. However, vide impugned order dated 07.04.2017/01.05.2017 (Annexure P-4), aforesaid punishment has been awarded to the petitioner.

Mr. Malik, learned senior counsel for the petitioner has restricted his argument to the point that before awarding impugned punishment, personal hearing was granted by Sh. S.S. Parsad, Additional Chief Secretary, Higher Education Department, Haryana, but the punishment order was passed by Sh. Mahavir Singh, Principal Secretary to Govt. of Haryana, Higher Education Department. Hence, the impugned order is liable to be set aside in view of the judgments passed by this Court in **Mohinder Singh Lather vs. The State of Haryana and others**, CWP No.3226 of 1996, decided on 22.11.1996 (Annexure P-5) and **Manohar Lal Sikri vs. The Punjab National Bank and others**, CWP No.15214 of 1999, decided on 19.07.2000 (Annexure P-6).

In their written statement, respondents have not denied the factual aspect that personal hearing was granted to the petitioner by Sh. S.S. Parsad, Additional Chief Secretary, Higher Education Department, Haryana and the punishment order has been passed by Sh. Mahavir Singh, Principal Secretary to Govt. of Haryana, Higher Education Department.

In **Mohinder Singh Lather's** (case) supra, this Court was considering a matter, where objections to the seniority list were to be decided. The objections were heard by Joint Secretary, Government of Haryana and the seniority list was finalized by the Commissioner and

Secretary. The matter was remitted back to the Secretary, Food and Supply with a direction to hear the parties and thereafter, prepare fresh seniority list. Similarly, in Manohar Lal Sikri's case (supra), it was a case where Deputy General Manager (Appellate Authority) Sh. R.K. Rehani was required to give personal hearing before passing the order of dismissal. But, he had relied upon the personal hearing given before some other officer, who had since retired. The impugned order was quashed on the ground that there was non compliance of the principle of natural justice.

In the facts of the present case, before passing the impugned order dated 07.04.2017/01.05.2017 (Annexure P-4), initially personal hearing was granted by Sh. S.S. Parsad, Additional Chief Secretary, Higher Education Department, Haryana and the order of punishment was passed by Sh. Mahavir Singh, Principal Secretary to Govt. of Haryana, Higher Education Department, which is against the principle of natural justice.

In view of the above, this petition is allowed and the respondent authority is directed to pass appropriate order on the appeal filed by the petitioner by granting him personal hearing, after serving due notice.

07.08.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No