

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5348 of 2018

Date of Decision: 15.03.2018

Yash Pal

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. G.S. Gopera, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. This Court has held that a reply to a legal notice served by an employee and rejecting his case in the course of parawise reply cannot be treated as an order of the government amenable to writ jurisdiction. A reply to the legal notice is not a substitute for an order passed by the government in writing by the competent authority open to challenge and judicial review. The officer who may respond to legal notice may not be the competent authority to consider granting or denying the relief claimed by an aggrieved employee. Therefore, no faith can be reposed on the memo dated 04.08.2014 as a decision of the State Government on policy matters. Hence, I would agree with the learned counsel for the petitioner that in the first instance the competent authority should take up both the issues raised in the legal notice and decide them by passing a speaking order in writing, which has binding force, whether the decision is for or against the employee.

2. The reply to the legal notice, copy of which is placed at

Annex. P-6 cannot be treated as an impugned order passed by the competent authority so as to govern the rights of the petitioner as the reply cannot be treated as an impugned order, the it follows that there is no order up for judicial scrutiny. If the reply of the Commandant, 3rd IRB Sunaria, Rohtak pretends to be an order it has to be set aside. It is accordingly quashed.

3. The petitioner would be at liberty to press his representation before the competent authority who will hear him and accordingly pass a speaking order within a reasonable time after hearing the petitioner. Accordingly, the petition is disposed of in above terms.

15.03.2018

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**(RAJIV NARAIN RAINA)
JUDGE**

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