

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

476

CWP No.10992 of 1997 (O&M)

Date of decision: 17.09.2019

Hare Ram Tiwari

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J. (ORAL)

1. Challenge herein, inter alia, is to the order dated 18.01.1995 Annexure P-1 whereby the petitioner was awarded punishment of stoppage of two increments in future on account of alleged delinquency of misbehaviour with others while on duty.

2. I have gone through the record of the case and find that the very reason of inflicting the punishment on the petitioner is that he had allegedly confessed to the charge of misbehaviour and therefore, the punishment. Other than that a bald assertion in the punishment order, there is nothing on the record to show that the petitioner had made any such confession. Neither any statement of the petitioner was recorded by the punishing authority nor, even otherwise, it has been proved that any such confession was made.

3. Further quashing of the Annexure P-4 issued pursuant to the order dated 04.04.1995 (Annexure P-3) whereby period of suspension from 26.10.1993 to 30.01.1995 converted into 'Leave of kind due' has been sought. The petitioner was placed under suspension on 26.10.1993 and enquiry was ordered against him, which resulted in awarding of punishment

of stoppage of two increments vide Annexure P-1.

4. The petitioner was placed under suspension by department and subsequently punishment was also awarded. In such a situation, converting suspension period into leave of kind due amounts to double jeopardy. Qua one enquiry, two separate punishment orders cannot be passed. Even the punishment order is totally silent on this aspect of the matter.

5. Equity too is having loaded in favour of the petitioner at this stage.

6. At the time of admitting the writ petition vide order dated 13.08.1997, a Division Bench of this Court had directed that no recovery shall be made from the salary of the petitioner in respect of the amount of subsistence allowance paid to him during the period of suspension pursuant to the punishment order under challenge herein. By the sheer efflux of time, in the premise it would not be justified to make such recovery now, after a lapse of 22 years from the petitioner who was/is working as class-IV post as Peon.

7. Regardless, having given my opinion on the merits of the case, the impugned order in any case is not sustainable.

8. The punishment order dated 18.01.1995 (Annexure P-1) and subsequent order dated 04.04.1995 (Annexure P-3) are accordingly set aside with all consequential benefits.

9. The writ petition is allowed in above terms. No order as to costs.

17.09.2019

D.Bansal

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No