

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-7959-CWP-2019 in/and
CWP-9423-2019
Date of decision: 31.05.2019**

Vikram Chhikara

....Petitioner

Versus

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Sumit Dua, Advocate, for the petitioner.

Mr.Jagdeep Singh Rana, Advocate, for
Mr.Brijeshwar Singh Kanwar, Advocate, for respondent-UOI.

G.S. SANDHAWALIA, J. (Oral)

CM-7959-CWP-2019

Application has been filed for preponement of the main writ petition, notice of which was issued on 24.05.2019, for today, as the Court of Enquiry is pending and has been delayed on account of non-availability of the petitioner.

Accordingly, for the averments made in the application, duly supported by affidavit, same is allowed and hearing of the main case is preponed from 20.08.2019, to today.

CM stands disposed of.

CWP-9423-2019

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for directing the respondents to allow the petitioner giving appearance/evidence through Video Conference and not to take any adverse action against the petitioner.

On 08.04.2019, the following order was passed:

“The petitioner is seeking exemption from appearance as a witness in the Court of Inquiry, which is taking place at Faizabad (U.P) on the ground of medical exigencies faced by him. It is submitted that he had suffered Traumatic Glaucoma in his left eye and similar problem was also therein in the right eye (Annexure P-9/A). His stitches have only been opened on 02.04.2019 (Annexure P-14). The Court of Inquiry is stated to be commencing from 09.04.2019 and in such circumstances request has been made for Video Conferencing.

Notice of motion.

Mr. Brijeshwar Singh Kanwar, Standing Counsel for respondents-UOI puts in appearance. Copies of the paper-book have been supplied to him. He prays for time to seek necessary instructions.

List on 24.04.2019.

In the meantime, no coercive steps be taken to enforce the presence of the petitioner, till the next date of hearing.

Copy of this order be given to the counsel for the petitioner under the signatures of the Special Secretary of this Court.”

In the reply filed by the respondents, it has been averred that the petitioner can intimate his availability before his next medical engagement so as to complete his evidence part of Inquiry as it is a time-bound procedure to be completed being related to irregularities committed during the year 2012-13. Details, as such, have been given as to how the petitioner is not coming forth before the Court of Enquiry from 17.04.2018.

The enquiry, at that point of time, was to take place at Bamrauli, Allahabad and the petitioner has retired from service on

31.07.2018 and repeated summons have been issued to him at Pune and Rohtak. Eventually, warrant of arrest was also issued and on 11.02.2019, the CJM, Rohtak had asked him to report within 15 days from the passing of the order and eventually, he reported on 24.02.2019 at the Dogra Regimental Centre, Faizabad. Since the Court of Enquiry had not assembled, the petitioner was asked to stay at Faizabad but he left Faizabad as he had to undergo a surgery on 21.03.2019. Thereafter, on account of eye operation at Command Hospital (Central Command) Lucknow, he was discharged and further request was issued to the CJM, for his presence on 09.04.2019, who had also issued his warrant of arrest. Keeping in view the same, the petitioner had approached this Court and the interim order, reproduced above, was passed on 08.04.2019.

Counsel for the petitioner has submitted that there is another operation slated in June, 2019 and therefore, requested that he would, as such, appear, thereafter.

This Court is, thus, of the opinion that if the petitioner is in a position to travel to Lucknow for his eye surgery which took place and which would have healed by now since almost 2 months have expired as the stitches were removed on 16.04.2019, it would be just and equitable if the petitioner would present himself before the Court of Enquiry on 04.06.2019, for his evidence.

Accordingly, the present writ petition is disposed of with a direction that the petitioner shall put in appearance before the Court of Enquiry at Faizabad on 04.06.2019 at 10.30 am. In case the petitioner

does not appear before the said authority on the said date, it will be open to the respondents to secure his presence, in accordance with law.

Copy of this order be given to counsels for the parties, under the signatures of Special Secretary of this Court.

31.05.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>