

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

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**CWP No.23739 of 2015.
Date of Decision: 03.12.2019.**

Daya Kishan

....Petitioner.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Suman Jain, Advocate for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Mr. Rajvir Singh Sihag, Advocate for respondent No.2.

Mr. S.S. Dalal, Advocate for respondent No.5.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the petitioner has challenged the impugned punishment order dated 02.11.2010 (Annexure P-2) as well as the order dated 16.08.2012 (Annexure P-8) passed by the appellate authority rejecting the appeal filed by the petitioner and also the order dated 19.02.2015 (Annexure P-9) vide which the revision petition filed by the petitioner has been rejected.

At the time of hearing, the only grievance, which is being raised by learned counsel for the petitioner, is that the enquiry report was never supplied to the petitioner alongwith the show cause notice and therefore, the order, which has been passed imposing the punishment, is contrary to the settled principles of law settled by Hon'ble Supreme Court in

Managing Director, ECIL, Hyderabad Vs. B. Karunakar, 1994 AIR (SC)

Learned counsel for the respondents controvert the averments made on behalf of the petitioner that the enquiry report was not supplied to the petitioner before passing the impugned order. Learned counsel for the respondents relies upon the show cause notice dated 24.08.2010, which was issued to the petitioner before passing the impugned order wherein, it has been mentioned that the enquiry report is enclosed alongwith the show cause notice.

Learned counsel for the petitioner states that, in fact, no enquiry report was ever submitted to the petitioner alongwith the show cause notice and this fact was taken as a ground by the petitioner while filing an appeal before the appellate authority, in Paragraph No.11, it was submitted by the petitioner that the enquiry report was not supplied to him.

Learned counsel for the petitioner further states that even in Paragraph No.3 of the order dated 16.08.2012 passed by the appellate authority the said argument has been noticed, but no finding has been recorded by the appellate authority on the said argument.

Learned counsel for the petitioner further argues that even before the revisional authority the same argument was raised, which though has been noticed in the order, but again no finding has been recorded by the revisional authority qua the said fact.

Learned counsel for respondent No.2 very fairly states that both the orders i.e. appellate order as well as revisional order dated 16.08.2012 and 19.02.2015 respectively be set aside with liberty to the respondent to pass a fresh order on the appeal preferred by the petitioner against the impugned order of punishment and a fresh order keeping in view the

contentions raised in the appeal, will be passed by the appellate authority-respondent No.3.

Keeping in view the above, the orders Annexure P-8 dated 16.08.2012 and Annexure P-9 dated 19.02.2015 are set aside. Respondent No.3 will pass a fresh order on the appeal preferred by the petitioner keeping in view the grounds raised therein including the ground that no enquiry report was supplied to the petitioner before passing the impugned order of punishment.

Let the required order be passed by respondent No.3 within a period of three months from the date of receipt of certified copy of this order.

The writ petition stands disposed of in above terms.

(Harsimran Singh Sethi)
Judge

03.12.2019

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No