

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

122

CWP No.3983 of 2019 (O&M)
DECIDED ON : 13.02.2020

Wali Mohd.

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present : Mr. Naresh Kumar Bansal, Advocate
for the petitioner.

GIRISH AGNIHOTRI, J. (ORAL)

The present petition has been filed by the petitioner-Wali Mohd., *inter alia*, praying for quashing of the memo dated 28.01.2020 and also the notice of retirement dated 25.11.2019.

Learned counsel for the petitioner submits that in fact as is evident from the order dated 22.07.2019 (Annexure P-2), the ACR for the period from 20.09.2018 to 06.01.2019 was based on the fact that the FIR No.8 dated 20.06.2018 was registered.

For the sake of ready reference, order dated 22.07.2019 (Annexure P-2) is reproduced here under:-

“ORDER

No.728/PA dated Faridabad, the 22.07.2017

1.The representation submitted by ASI Wali Mod. No.1428/FBD against adverse remarks recorded in his ACR for the period from 20.09.2018 to 06.01.2019 has been considered in depth. The under signed has gone through the representation as well as the comments furnished by the reporting authority DCP/Hqrs., Faridabad and found that a case FIR No.08 dated 20.06.2018 under Section 7/13 PC Act

PS SVB, Faridabad was registered against the representationist for demanding bribe. Regular departmental enquiry ordered against the representationist on the same charges is also pending.

2. I have heard the representationist in person today i.e. 22.07.2019. The representationist could submit no more except the pendency of criminal case and departmental enquiry, which is already in the record. He only requested for pardon. The undersigned was not satisfied with the arguments made by the representationist. He was totally unable to prove himself innocent about the charges levelled against him.

3. Hence, the representation is rejected being devoid of any merit, Please inform the representationist accordingly.

(Sanjay Kumar) IPS
Commissioner of Police,
Faridabad.
22nd July, 2019.”

Learned counsel further submits that against the regular departmental enquiry, he filed writ petition challenging the order dated 27.06.2018, this Court passed the following order:-

“CWP No. 22990-2018

Wali Mohd. vs. State of Haryana and others

Present : Mr N.K. Bansal, Advocate, for the petitioner

Learned counsel for the petitioner submits that in the criminal proceedings, charges have not yet been framed and now vide impugned order dated 27.06.2018, the regular departmental enquiry was ordered against the petitioner as well as statement of allegations dated 02.07.2018 has been issued to the petitioner by respondent No. 3.

Learned counsel submits that the departmental enquiry cannot be done simultaneously during the pendency of the criminal for same cause of action.

Notice of motion for 28.01.2019.

To be heard along with CWP No. 18852-2018. In the meantime, the departmental proceedings may go on but the

common witnesses be not examined and the final order be not passed.

11.09.2018
G Arora

(RITU BAHRI)
JUDGE”

Learned counsel then submits that all these facts were brought to the notice of the authorities vide representation dated 27.06.2019.

At this stage, learned counsel for the petitioner further undertakes that he shall file another comprehensive representation within two week from today.

The matter may be referred to the Competent Authority-respondent No.3 or any other concerned authority which may decide the issues raised by the petitioner.

It is further clarified that if any adverse decision is taken against the petitioner, the said order so passed as also the notice dated 25.11.2019 (Annexure P-3) be not given effect to for a period of one week from the date the order is communicated to the petitioner.

Writ petition is disposed of.

February 13, 2020
jyoti3

(GIRISH AGNIHOTRI)
JUDGE

Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO