

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

LPA-643-2020

Date of Decision: 08.10.2020

Vazir Singh

....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Amit Khari, Advocate,
for the appellant.

KARAMJIT SINGH, J.

Case has been heard through video conferencing in view of
COVID-19 Pandemic.

The appellant has filed this appeal for setting aside judgment/order
dated 08.09.2020 passed by the learned Single Judge in CWP-13883-2020.

The appellant filed CWP-13883-2020 seeking directions for
issuance of a writ in the nature of mandamus by directing respondent No.2 to
decide his representation dated 03.07.2020 (Annexure P-4), whereby no action
was taken on the grievance of the appellant. He also prayed for quashing/
setting aside of the notice/order dated 28.08.2020 (Annexure P-7), whereby,
the appellant was asked to hand-over the keys to Suresh Kumar (AFM), since
the appellant was not reporting for his duty since 05.08.2020. The said writ
petition was dismissed by the learned Single Judge, vide order dated
08.09.2020 with the following observations:-

*“Counsel for the petitioner could not demonstrate that what
is the statutory legal right, on the basis of which a writ of
mandamus can be issued to decide the representation. It is the
settled principle that a writ of mandamus can only be issued
where there is a statutory legal right or a public duty compelling
the authority to decide such a representation. The Court cannot*

as such take over the functioning of the department, which is Uttar Haryana Bijli Vitral Nigam Ltd., regarding the issuance of material from the store. It is the apparent attempt by the petitioner that his service conditions have to be monitored by this Court.

In the opinion of this Court, the present writ petition is mis-conceived and not maintainable and is, accordingly, dismissed in limine.”

Being not satisfied, the appellant has filed the present appeal.

We have heard the learned counsel for the appellant.

Learned counsel for the appellant contended that the Court has got jurisdiction to deal with the matter. Learned counsel for the appellant further prayed that the impugned order be set aside and necessary direction be given to respondent No.2 to consider and decide the representation dated 03.07.2020 (Annexure P-4), as on date no action has been taken on it by the concerned respondent.

We have considered the submissions made by the learned counsel for the appellant.

Annexure P-7 is the copy of final notice dated 28.08.2020, issued to the appellant by A.E.E. D/Store, UHBVN, Sonapat, directing him to hand-over the charge of material to Suresh Kumar (AFM) for smooth functioning of the office, with immediate effect and to submit the compliance report with two days. From perusal of the said notice, it also transpires that the appellant was absent from his duty since 05.08.2020.

Annexure P-4 appears to be a complaint dated 03.07.2020 lodged by the appellant against the other employees of his department. The same was addressed to respondent No.2 with a request to take action against S.D.O (Store), Sonapat.

The grievance of the appellant is that no action has been taken by respondent No.2 against the concerned official, on the basis of aforesaid

complaint/representation 03.07.2020 (Annexure P-4).

We are of the view that this Court cannot take over the functioning of the Government department. Notice/order dated 28.08.2020 (Annexure P-7) is purely an administrative order which was passed by the department in the interest of better administration. The said order is not a punitive in nature and does not visit the employee with civil consequences. Order (Annexure P-7) being consequence of administrative exigency, does not warrant any interference. Also it is for the department to see whether any action requires to be taken on complaint/representation (Annexure P-4).

We are of the view that in the given circumstances, the learned Single Judge rightly observed that the appellant failed to demonstrate the statutory legal right, on the basis of which a writ of mandamus could be issued to decide the representation. The learned Single Judge also correctly observed that it is apparent attempt by the appellant that his service conditions should be monitored by this Court. From the perusal of Annexure P-7, it appears that appellant himself being absent from duty, is at fault. Thus, he is not entitled to get the discretionary relief, as prayed for.

In the light of the above, no ground is made out to interfere in the impugned order dated 08.09.2020. Consequently, this appeal is hereby dismissed, being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

08.10.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No