

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
104**

CWP-28611-2019

Date of decision: 06.02.2020

HARWANT SINGH

...PETITIONER

V/S

STATE OF PUNJAB & OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S.Cheema, Advocate,
for Mr. Himanshu Raj, Advocate,
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 27.03.2018 (Annexure P-39), vide which the extension granted to the petitioner for one year stands cancelled.

Learned counsel for the petitioner contends that as per the Punjab Government Instructions dated 30.04.2015 (Annexure P-1), the extension granted to the petitioner could not have been revoked/cancelled merely because a charge-sheet has been issued to the petitioner and a departmental enquiry under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (hereinafter referred to as '1970 Rules') stands initiated. He contends that the charge-sheet which has been

issued to the petitioner and the allegations made therein do not constitute a grave mis-conduct as has been referred to in Clause 5 of the said Instructions and, therefore, the impugned order cannot sustain.

Learned counsel for the State, on the other hand, contends that Clause 5 of the Instructions dated 30.04.2015 refers to various situations where the extension earlier granted to an employee could be revoked by the competent authority. The said contingencies and conditions are that if any grave mis-conduct is committed by an employee on extension or any act of grave mis-conduct is done earlier which comes to the notice of the competent authority followed by a departmental enquiry under Rule 8 of the 1970 Rules, the extension could be revoked without any notice. In the case of the petitioner, the charge-sheet, admittedly, has been issued to the petitioner under Rule 8 of the 1970 Rules and, therefore, the extension granted to him could have been revoked as per the said Instructions and has rightly been so done. Prayer has, thus, been made for dismissal of the writ petition.

I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the pleadings as also the Instructions dated 30.04.2015 (Annexure P-1) on which depends the fate of the case.

The clause in the present case, which would be applicable to these Instructions, is Clause 5 thereof, which reads as follows:-

“ Those officers/employees who have been put on extension, if do any act of grave misconduct or any act of grave misconduct done earlier comes to the notice, then along with the departmental enquiry under Rule 8 of Punjab Civil Services

(Punishment and Appeal) Rules, 1970, extension could also be revoked without any notice. In such cases of Group A & B Officers, a committee of Administrative Secretary, Chief of Department and another senior officer shall take decision regarding this in the same month. Such decision in cases of Group C and D employees shall be taken at the level of appointing authority.”

A perusal of the above clause would leave no manner of doubt that the competent authority could revoke the extension granted to an employee in case of there being a departmental enquiry under Rule 8 of the 1970 Rules invoked. The extension, therefore, granted to the petitioner has rightly been revoked by the respondents.

Petitioner has also challenged the order dated 27.06.2019 passed by the Secretary, Punjab Government Education Department, Schools, whereby, after holding a regular enquiry when the charges against the petitioner were proved and after giving him a show cause notice as also the personal hearing, the said officer had proceeded to impose a punishment of 5% cut in pension for two years upon the petitioner for the grave misconduct.

Counsel for the petitioner contends that the Enquiry Officer has not granted him ample opportunities to lead his evidence rather the evidence, which the petitioner intended to lead in his defence, was not permitted, because of which, he could not defend himself before the Enquiry Officer properly. He, thus, contends that the report, which is the basis for imposing the order of punishment upon the petitioner, deserves to be set aside and the punishment, as imposed, being not in consonance with the

principles of natural justice, be quashed. A consequential prayer has been made for continuing with the extension of the petitioner which was granted to the petitioner and subsequently cancelled vide order dated 27.03.2018 (Annexure P-39).

This contention of the learned counsel for the petitioner cannot be accepted as in the reply of the show cause notice, which has been served upon the petitioner dated 22.10.2018 (Annexure P-29), no such ground has been made by the petitioner. Rather the reply, which has been filed by the petitioner, by and large, revolves around the cancellation of the extension which has been granted to him. The plea, as such, sought to be raised by the petitioner cannot, therefore, be taken into consideration nor it is found to have been raised by the petitioner before the punishing authority.

Nothing has been brought on record which would indicate to substantiate situations as has been sought to be projected relating to the enquiry as far as the petitioner is concerned. The punishment, as imposed by the Secretary Education, cannot be said to be disproportionate to the misconduct which is attributed to the petitioner and found proved against him which would call for any interference by this Court.

In the light of the above, no merit has been found in the present writ petition. The writ petition, therefore, stands dismissed.

February 06, 2020*pj***(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No