

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(204)

CWP No. 683 of 2020 (O&M)

Date of Decision : 05.07.2021

Sundeep Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunil Kumar Nehra, Advocate for the petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

Mr. Sartej Singh Narula, Advocate for respondents No. 3 to 8.

Harsimran Singh Sethi J. (Oral)

Learned counsel for the petitioner, vehemently, argues that the impugned order dated 09.12.2019 (Annexure P-61) in appeal passed by the appellate authority cannot be sustained on the ground that the authority which passed the impugned order dated 12.07.2019 (Annexure P-49), against which order appeal was preferred before the appellate authority, was a part of the appellate authority while deciding the appeal. Learned counsel for the petitioner further argues that the presence of the same Officer in the appellate authority at the time of hearing and decision of the appeal vitiates the process undertaken by the appellate authority while passing the impugned order dated 09.12.2019 (Annexure P-61).

On being pointed out to the learned counsel appearing on behalf of respondents No. 3 to 8 that how can an Officer, whose order was

under appeal, participate in the proceedings being undertaken for hearing the appeal preferred by the petitioner against the order passed by the said Officer.

Learned counsel appearing on behalf of respondents No. 3 to 8 submits that as a matter of fact, the Officer who passed the order dated 12.07.2019 (Annexure P-49), participated and was part of the appellate authority, which decided the appeal on 09.12.2019. He further submits that the appellate authority will pass a fresh order on appeal preferred by the petitioner against the order dated 12.07.2019 (Annexure P-49) in accordance with law after giving due opportunity of hearing to the petitioner and the impugned order passed in the appeal dated 09.12.2019 (Annexure P-61) may be treated as withdrawn.

Learned counsel for the petitioner submits that as of now, as the impugned order passed in appeal on 09.12.2019 has already been withdrawn with liberty to pass a fresh order, his grievance qua the said order stands redressed though, the petitioner is also impugning the punishment order dated 12.07.2019 (Annexure P-49), against which he had filed an appeal. Learned counsel further submits that the present petition be disposed of having been not pressed any further at this stage but the respondents be time bound in passing the fresh order in appeal.

Learned counsel appearing on behalf of respondents No. 3 to 8 submits that fresh order in appeal, by giving due opportunity to the petitioner to defend, will be passed within a period of two months from the date of receipt of copy of this order.

This satisfies even the apprehension of the petitioner.

Ordered accordingly.

Keeping in view the above, the present writ petition is disposed of as not pressed any further, at this stage with liberty to the respondents to file a fresh order in appeal in accordance with law after giving due opportunity of hearing to the petitioner.

It is clarified that in case the petitioner is aggrieved in any manner after the order is passed in appeal, he will be at liberty to avail appropriate remedy against all the orders, causing prejudice to him.

July 05, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No