

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

210

CWP-5720-2019 (O&M)

Date of Decision: 26.02.2021

ASI Vidya Rattan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Mansur Ali, Advocate and
Mr. Imran Ali, Advocate,
for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

RAJBIR SEHRAWAT (ORAL)

The petitioner is seeking issuance of an appropriate writ, order or direction for quashing of the impugned order dated 17.02.2019 (Annexure P-6).

A bare perusal of the impugned order shows that disciplinary authority has not conducted any disciplinary enquiry against the petitioner before passing this order. Instead, the order of dismissal of the petitioner from service has been passed by exercising the powers under Article 311 (2) (B) of the Constitution of India; by dispensing with the disciplinary enquiry. However, no reason is mentioned in the order as to why holding of the disciplinary enquiry was not reasonably practicable. No impossibility,

difficulty or impediment in holding of the regular disciplinary enquiry against the petitioner has been mentioned in the impugned order. Hence, the order as such cannot be sustained. Before dispensing with the enquiry, the disciplinary authority was required to record reasons as to why it was not possible or reasonably practicable to hold the enquiry. Mere heinousness or gravity of misconduct cannot be the ground of dispensing with the enquiry.

Accordingly, the impugned order is set aside.

However, the disciplinary authority would be at liberty to proceed against the petitioner in accordance with law. It is further ordered that merely because of setting aside of the impugned order, the petitioner would not be entitled to be reinstated into service with immediate effect, if the competent authority initiates the action against the petitioner within a period of 4 weeks from today. The question of reinstatement and the issue of intervening period, if any, would be decided by the competent authority at the time of passing of the final orders qua the petitioner, but in accordance with law.

The writ petition is disposed of in the above said terms.

(RAJBIR SEHRAWAT)
JUDGE

26.02.2021
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No