

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

114

**CWP No. 10966 of 2021
Date of decision : 15.11.2021**

Bashir Ahmad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Diwan S. Adlakha, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the impugned order dated 4.7.2019 (Annexure P-5), passed by the Additional Chief Secretary, Haryana Government, Transport Department, Chandigarh, vide which appeal filed by the petitioner against the order dated 17.4.2014 (Annexure P-3), passed by the Additional Transport Commissioner-cum-Appellate Authority, was dismissed. It is also prayed that order dated 17.4.2014, imposing penalty of stoppage of two increments without cumulative effect; and also restricting the suspension period up to subsistence allowance, as well as, order dated 11.7.2013 (Annexure P-3), passed by General Manager, Haryana Roadways, Yamuna Nagar, to the extent vide which the suspension period i.e. 28.8.2008 to 27.11.2008 in respect of the petitioner, is restricted to subsistence allowance only, be also quashed. Further prayer of the petitioner is to issue directions to the respondents to treat the suspension period of the petitioner as duty period and grant him difference of pay and subsistence allowance with consequential benefits along with interest @18% per annum.

It is submitted by counsel for the petitioner that there is no rule which authorizes the punishing authority to charge sheet the petitioner for not taking care of the bus upon which he was a driver, admittedly, when the bus was parked at the bus-stand. Hence, the punishment imposed upon the petitioner is without any jurisdiction. Still further, it is submitted that the Conductor of the said bus was also on duty with the driver. However, he has been left only with the punishment of the recovery of Rs.7000/-. Hence, the punishment imposed upon the petitioner is discriminatory as well.

Having heard counsel for the petitioner, this Court does not find any substance in the arguments. There is not even an allegation and even an assertion of the petitioner that the respondent authorities have not followed the procedure prescribed under the rules before imposing the punishment upon the petitioner. Otherwise this Court is not supposed to act as a Court of appeal, over and above the order passed by the punishing authority and the statutory Appellate Authority. Hence, this Court does not find any ground to interfere in the matter. Although the argument of counsel for the petitioner is that there is no rule under which the petitioner could have been charged for not taking care of the bus, however, this argument does not carry any weight. Undisputedly, the petitioner was driver on the Haryana Roadways bus in question. The bus was entrusted to the petitioner to be taken to its destination and back to its starting point. Therefore, it was for the petitioner only to take care of the bus till it return back to the place from where it was started. However, the petitioner left the bus un-attended and the same was burnt by miscreants. Hence, this is abject negligence in performance of the duty, for which the petitioner has been punished; on account of the bus having burnt in his

absence; while under his charge. No specific provision is required in the disciplinary rules for dealing with this specific situation. Charge of being negligent in duty and inviting consequences is sufficient. The petitioner can be punished for negligence in performing his duties.

This Court also does not find any ground qua the discrimination as alleged by the petitioner. A conductor is assigned different duties for attending the travellers in the bus. His duties being different, he can be dealt with differently by the respondent authorities. The duties, and therefore, the consequences of negligence, cannot be the same qua the driver and the conductor of the bus; merely because they are on duty on the same bus.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

15.11.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No