

HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105+202

CWP-13276-2020(O&M) and
CWP-37230-2019 (O&M)
Date of Decision: 14.07.2021

Sh. Balwinder Singh Sekhon

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. R.S. Bains, Sr. Advocate with
Mr. Mohan Singh Chauhan, Advocate
for the petitioner.

Ms. Anu Chatrath Kapur, Addl. A.G. Punjab with
Ms. Anju Sharma Kaushik, DAG, Punjab.

Mr. Karan Nehra, Advocate
for respondent No.2.

*(The aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted
in virtual court due to COVID-19)*

GIRISH AGNIHOTRI, J. (Oral)

By this common order, two writ petitions i.e. CWP No.37230 of 2019 and CWP No. 13276 of 2020 are being disposed of. For the sake of convenience, facts are being taken from CWP-13276-2020.

Petitioner-Balwinder Singh Sekhon stated to be aged 56 years has filed the present writ petition *inter alia* with a prayer for quashing the charge sheet dated 14.02.2020 (Annexure P-7) issued by the respondent No.1 at the instance of respondent No.2, vide which, the petitioner has been charged for making unpleasant remarks against the Govt. and secondly that

the petitioner has remained willfully absent from duty from 21.11.2019 to 05.12.2019.

Records of the case show that on 01.09.2020, when this case came up for hearing before this Court, following order was passed:-

“Counsel for the petitioner herein seeks to challenge the chargesheet dated 14.02.2020 which according to him has been issued at the instance of respondent No.2, while further contending that he has been already placed under suspension, which order is under challenge in a separate proceeding in CWP No.37230 of 2019. It is argued that action of the State is totally mala fide while relying upon Annexure P-4, which is a transcript of the telephone conversation between respondent No.2 and certain officials including the petitioner herein.

Notice of motion.

At this stage, on the asking of the Court, Ms. Anju Sharma Kaushik, DAG Punjab, accepts notice on behalf of the respondents and would submit that an enquiry has already been initiated, in which a reply has been filed and enquiry has yet to be concluded, while further submitting that this matter be heard along with connected CWP No.37230 of 2019, which is coming up for hearing on 18.09.2020.

Adjourned to 18.09.2020.

Connect with CWP No.37230 of 2019.

In the meantime, let the proceedings under the enquiry to continue, however, final order be not passed till the next date of hearing.”

Thereafter, the case was adjourned on some of the dates.

CM Nos.7052 & 7053 of 2021 have been filed on 26.05.2021, on behalf of the respondent-State *inter alia* with the prayer to list the writ petition for some early date and for vacation of stay interim order dated 01.09.2020.

In these applications, it has been *inter alia* pleaded that the

enquiry has been concluded by the Enquiry Officer, however, in view of the orders passed by this Court on 01.09.2020, the Competent Authority has not yet passed the final order.

CM-7841-2021 has been filed on behalf of the petitioner *inter alia* with the prayer to permit the petitioner to place reply to the CM No.7053 of 2021 on record. In this application, various submissions have been made.

Thereafter, CM No.8295 of 2021 was filed by the petitioner seeking permission to place on record (Annexure P-26) i.e the departmental enquiry report. Further prayer has also been made to place the documents (Annexure P-27 to Annexure P-29) on record.

This Court vide order dated 05.07.2021, had passed an order disposing of CM No.7818 of 2021 and also passed orders to list the main case for final disposal on 14.07.2021 i.e. today.

At the outset, in the peculiar facts and circumstances as noticed above, this Court had offered the counsel for the petitioner to seek instructions from the petitioner, as to if, he is agreeable if this Court would grant some time for implementation of any adverse order if any is passed by the Competent Authority.

Learned Senior counsel, on instructions from the petitioner, submits that 10 days would be reasonable time to enable the petitioner to challenge adverse order, if any passed by the Competent Authority. Learned Senior counsel for the petitioner also submits that in CWP No.37230 of 2019 the challenge *inter alia* is to the order dated 05.12.2019 whereby petitioner was placed under suspension. He makes an oral prayer that in fact

as per rule 7(2) of Punjab Civil Service Rules, the petitioner is entitled to subsistence allowance at the enhanced rate i.e. up to 75% in accordance with law after lapse of 6 months.

In view of what has been noted above, the aforementioned writ petitions are disposed of in the following terms:-

1. The petitioner if so advised, may file a comprehensive representation claiming enhanced subsistence allowance in terms of the Punjab Civil Service Rules from the date of his entitlement.

2. In the event that said representation is made to the Competent authority, the Competent Authority is directed to consider and pass an order within the period of 2 weeks from the date of receipt of the certified copy.

3. The Competent Authority is given liberty to pass final order in the departmental enquiry (as it has been stated before this Court that the same has been concluded and the Enquiry Officer has submitted his report). It is also made clear that the interim order dated 01.09.2020 in CWP No. 13276 of 2020 shall stand modified in terms of this order.

4. It is further directed that in case any adverse order is passed against the petitioner on the departmental enquiry, the same shall not be implemented for a period of 10 days, from the date of passing of the order.

In view of the above observations, both the writ petitions are **disposed of**. All applications pending with the main cases, stand disposed of accordingly.

At this stage, oral request has been made by Mr. Karan Nehra on behalf of respondent No.2 that in fact, in the order dated 05.07.2021, his presence has been wrongly marked as counsel to the petitioner whereas, he

had actually put in appearance on behalf of respondent No.2 as is evident from the order dated 19.04.2021.

Oral request is accepted.

Registry is directed to take out necessary correction in the order and in the order dated 05.07.2021 presence of Mr. Karan Nehra, Advocate be substituted by Mr. Mohan Singh Chauhan, Advocate.

It is further directed that presence of Mr. Karan Nehra, Advocate be marked for respondent No.2.

14.07.2021
Shruti

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No