

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM No.905-CWP of 2021 in/and
CWP No.21260 of 2020

Date of Decision: March 26, 2021

Shamsher Singh Dangi

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vivek Sheoran, Advocate
for the petitioner

Mr. Narender S. Behgal, AAG Haryana

Sudhir Mittal, J. (Oral)

CM No.905-CWP of 2021

The applicant was suspended vide order dated 30.06.2020. The charge-sheet has been issued to him on 05.03.2021. By placing reliance upon Rule 5 of the Haryana Civil Service (Punishment and Appeal) Rules, 2016, learned counsel for the applicant has argued that the maximum period for which suspension order can sustain is 90 days extendable to 180 days. The period can be extended upto 180 days only, if, before expiry of the period of 90 days, special circumstances are recorded for not initiating disciplinary proceedings and after seeking approval of the next higher authority. If the same is not done, the order of suspension stands revoked automatically.

Learned State counsel does not dispute the fact that the charge-sheet has been issued on 05.03.2021. He only states that the delay was on account of ongoing COVID-19 pandemic. He places reliance upon judgment of the Supreme Court in *U.P. Rajya Krishi Utpadan Mandi Parishad and Others vs. Sanjiv Rajan, 1993 Supp (3) SCC 483* to submit that suspension order cannot be revoked

The Rule aforementioned is clear. It provides that suspension can be extended to a maximum period of 90 days and thereafter it becomes invalid unless and until before expiry of the said period, the competent authority records reasons in writing for initiating disciplinary proceedings and obtains approval of the next higher authority. Neither any reason has been recorded in writing nor approval of any higher authority has been obtained in this case and, thus, in terms of Note 1 of the aforementioned Rule, the order of suspension stands revoked.

The judgment in *Sanjiv Rajan (supra)* is distinguishable as in the said case, the High Court had revoked the order of suspension on account of delay. There was no order of revocation in terms of rules covering the subject.

Accordingly, the application is allowed and it is declared that suspension order dated 30.06.2020 stands revoked. The applicant-petitioner shall rejoin duty forthwith. However, disciplinary proceedings may continue.

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Since, the application aforementioned has been allowed, the writ petition has been rendered infructuous and is disposed of as such.

March 26, 2021

Poonam Negi

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No