

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

C.W.P No. 23875 OF 2021

DATE OF DECISION:29.11.2021

Dr. Gulab Singh Narwal

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Bhagoti Singh, Advocate,
for the petitioner.

Ms. Rajni Gupta, Addl. AG, Haryana.

Mr. Gaurav Pathak, Central Government Counsel
for respondent No.7-UOI.

ARUN MONGA, J. (ORAL)

1. Assailed herein is an order dated 12.11.2021 (Annexure P-32) passed by Additional Chief Secretary to Government of Haryana, Irrigation and Water Resources Department, Chandigarh whereby, accepting the enquiry report of holding the petitioner (Chief Engineer under suspension) delinquent qua the charges levelled against him, he has been awarded punishment of compulsory retirement from service.

2. A bare perusal of the impugned order would reveal that the same records, in no uncertain terms, that the enquiry report dated 27.08.2021 (Annexure P-25) was sent to the office of Engineer-in-Chief, on 21.09.2021 and was got received from the petitioner on 29.09.2021. As

per the provisions contained in Rule 7(C)(1) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, the petitioner is entitled to file his objections/representation within 30 days of having been served the enquiry report. The impugned order records that as on date of passing of the same, the petitioner had not submitted any representation. Perhaps a conclusion was drawn that findings recorded in the enquiry report dated 27.08.2021 (Annexure P25), in absence of any objections, had since attained finality by sheer acquiescence thereof.

3. On the contrary, perusal of the records appended with the writ petition, particularly Annexure P-28 bearing signatures of the Data Entry Operator in the office of Additional Chief Secretary to Government of Haryana, Irrigation and Water Resources Department, Chandigarh as a token of receipt of the representation and also tracking report downloaded from the website of Department of Indian Post, would reveal that petitioner had indeed submitted his representation. Registered Post dispatched on 10.11.2021 at 12:54:23 hours was delivered on 11.11.2021 at 16:00:23 hours. It does appear that, representation was additionally also delivered physically in person vide Annexure P-28. The petitioner being apprehensive that the same may not be put up before the competent authority, as a matter of abundant caution, he also kept postal proof handy thereof. As it turned out, the representation was not been brought to the notice of the competent authority, before passing the impugned order dated 12.11.2021.

4. *Apropos* learned State counsel submits that even if it is assumed that the petitioner had indeed submitted representation, the same is beyond the period of 30 days entitled to him. The competent authority was thus fully justified in passing the impugned order after the lapse of 30 days from the date of receipt of the enquiry report.

5. Be that as it may, it does appear that prior to submission of formal representations, the petitioner had been pursuing in the offices of Chief Engineer as well as Additional Chief Secretary to provide him with the requisite material, which has been relied upon by the enquiry officer, as is referred in the enquiry report itself. On the one hand, there is no advert to any of his applications/representation seeking information, as is borne out from Annexures P-26 and P-27, on the other hand, when having waited for sufficient long period, the petitioner submitted his representation without being supplied the aforesaid material, the same was not put up before the competent authority.

6. Having heard rival contentions, I am of the view that the representation of the petitioner was indeed not considered, for whatever reason, which is not relevant at this stage, as long as fresh orders are passed after duly considering the representation.

7. Confronted with the situation, learned State counsel submits that competent authority shall pass fresh orders after considering the representation and till then, the petitioner shall be deemed to be under suspension. Accordingly, let fresh orders be passed

as above. It is expected of the respondents to provide the requisite

information, in order to obviate any possibility of the petitioner later on taking defence that despite having been specifically asked for, the said information was yet not given. Upon supply of the information as aforesaid, a fresh representation shall be submitted within a period of 10 days. The petitioner shall intimate the date and time, on which, he shall report in the office of the Engineer-in-Chief so as to be provided with the information, as has been sought by him, which is also referred in the covering letter of the enquiry report, stating that enquiry report contains pages 1 to 260 excluding the enquiry report. Let all the pages referred therein i.e. 1 to 260 be provided, since enquiry report has already been supplied.

8. Disposed of, accordingly.

9. Needless to say that till the fresh orders are passed, the petitioner shall continue to be under suspension. In the premise, the impugned order dated 12.11.2021 (Annexure P-32) stands set aside.

NOVEMBER 29, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No