

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

134

CWP No.810 of 2022 (O&M)
DATE OF DECISION : 01st FEBRUARY, 2022

Satyawan

.... Petitioner

Versus

Haryana State Agricultural Marketing Board and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ravi Malik, Advocate,
for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari calling for the records of the respondents regarding the service of the petitioner and after perusal of the records a writ be issued in the nature of certiorari for quashing the order dated 04.11.2019 (Annexure P-8) passed by respondent No.3, whereby punishment of compulsory retirement has been awarded and impugned order dated 07.12.2021 (Annexure P-10) passed by respondent No.2, wherein appeal filed by the petitioner has been partially allowed.

It is submitted by the counsel for the petitioner that the impugned punishment orders have been passed by the authorities against the petitioner only on the basis of preliminary enquiry report. The evidence which has allegedly been collected during the regular enquiry, have not even been referred to either in the punishment order or in the appellate order. The entire emphasis is upon the fact finding report given by the

Controller Finance and Account. Hence, the orders passed by the authorities are totally bereft of consideration qua the material on record which has come during the regular enquiry.

Notice of motion.

Mr. Rajesh Gaur, Addl. Advocate General, Haryana accepts notice on behalf of the respondents.

A perusal of the record shows that the petitioner was issued charge-sheet on the basis of a preliminary enquiry. The reply filed by the petitioner not having been found satisfactory, the regular enquiry was marked to a retired District & Sessions Judge. The enquiry report was submitted by the Enquiry Officer holding the petitioner to be guilty. The petitioner had filed objections against the enquiry report in response to the show cause notice issued upon him. However, the order passed by the Punishing Authority has made a reference extensively only to the preliminary enquiry report and has not referred to the material which is stated to have come against the petitioner during the regular enquiry. The same methodology has been adopted even by the Appellate Authority. Although the Appellate Authority has reduced the punishment awarded to the petitioner to some extent, however, again; the reference is not made to the regular enquiry and the reference has again been made more to the preliminary enquiry. In view of these situations, the orders passed by the authorities deserve to be re-considered in view of the evidence which is stated to have come during the regular enquiry.

In view of the above, the impugned orders are set aside. The Punishing Authority is directed to pass fresh order, as deemed appropriate by them, by taking into consideration the enquiry report submitted by the

Enquiry Officer and the material led in evidence during that enquiry; and
not with reference to the preliminary enquiry as such.

Disposed of.

01st FEBRUARY, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*