

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

CWP-1226-2022 (O&M)

Date of decision: November 14, 2022

Dr. Arvinderjeet Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Aditya Gautam, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing respondent No.1 to reinstate the services of the petitioner as Food Safety Officer in accordance with the proviso of the Rule 5(1) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016. Further a writ in the nature of Mandamus has been sought seeking direction to the respondents to release the pending salary and subsistence allowance as per order dated 14.10.2021.

2. On 10.03.2022, following order was passed by this Court:-

“Under challenge herein is the impugned order dated 14.10.2021 (Annexure P-2), vide which services of the petitioner, who is physician by education and is posted as Food Safety Officer, Hisar, have been placed under suspension.

2. *At the time of issuing notice of motion, following order was passed on 04.02.2022:-*

“Notice of motion.

Notice re: stay as well.

Learned State counsel, on advance service, joins proceedings and accepts notice on behalf of the

respondent-State of Haryana and seeks time to get instructions and file return.

Adjourned to 21.02.2022.

Meanwhile, copy of the order passed in terms of Rule 5 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, giving specific reasons to extend the period from 90 to 180 days in commencing the departmental proceedings/framing of the charge-sheet be placed on the Court file, as well as the proof of conveying the same to the petitioner/delinquent employee.”

3. *Pursuant to the above, short reply by way of an affidavit dated 21.02.2022 has been filed. Citing Haryana Civil Services (Punishment Appeal) Rules, 2016 (for short ‘Rules’) stand taken therein, inter alia, vide an office order dated 21.02.2022 (Annexure R-3) is as below:-*

“6. That keeping in view the provision under Rule-5 of Haryana Civil Services (Punishment & Appeal) Rules, 2016, the Government vide letter dated 19.01.2022 was requested to extend the statutory period of 90 days to 180 days for issuance of charge-sheet by exercising the powers conferred under Rule-5(1) of Haryana Civil Services (Punishment & Appeal) Rules, 2016 as in the matter of issuance of charge-sheet to the petitioner proceedings of two Departments were involved i.e. the Office of Answering Deponent & Office of Department of Health, Haryana.

7. That the matter remained under active consideration of the Government for issuance of charge-sheet as well as for extension of statutory period.”

4. *Perusal of the record reveals that 90 days period after passing of suspension order expired on 12.01.2022. As against the extension which ought to have been taken within 90 days, same was belatedly sought after one week on 19.01.2022. While 180 days expired on 12.04.2022. Nothing on record has as yet been placed by the respondents to show as to whether the extension was actually accorded. Charge-sheet was though served on the petitioner on 18.02.2022 vide Annexure R-2.*

5. *Be that as it may, prima facie, it appears that there has been lapse on the part of the respondents qua compliance of the statutory requirements as envisaged under Rules. Same needs consideration. It seems that lackadaisical approach has been adopted by the respondents to suspend the petitioner from service. Suspension may though not be punitive per se, but certainly causes certain amount of humiliation, as well as part deprivation of livelihood during the interregnum one is suspended.*

6. *Post it on 14.11.2022.*

7. *In the meanwhile, operation of the impugned order is partly stayed to the extent that petitioner's suspension shall be forthwith revoked. However, rejoining of the petitioner pursuant to the instant order would not be construed to mean that contemplated departmental proceedings are stayed. Respondents are at liberty to proceed in accordance with law."*

3. Learned counsel for the petitioner submits that the grievance of petitioner to the extent that he was not being reinstated, stands mitigated, as during pendency of writ proceedings, he has already been reinstated.

4. Writ petition is accordingly disposed of with the expectation from the respondents that *qua* the other grievance of the petitioner viz. non-payment of subsistence allowance and any other arrears legitimately payable, during the suspension period, an appropriate administrative order shall be passed within a period of 2 months from today.

5. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

November 14, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No