

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

CWP No.3891 of 2022 (O&M)
Date of Decision: March 22, 2022

Paramjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.K. Arora, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. DAG Punjab.

JAISHREE THAKUR, J. (Oral)

Short reply filed by way of affidavit of Mr. Amandeep Bansal, Addl. Secretary, Department of Home Affairs and Justice, Punjab, on behalf of respondents No.1 and 2 is taken on record.

The petitioner herein seeks to challenge the continued suspension being beyond the circular dated 02.07.1980 (Annexure P-6) as issued by the Punjab Government.

It is contended that as per circular dated 02.07.1980, Clause 6 (ii) specifically states that an employee should not be suspended until a proper charge-sheet has been served upon him and his explanation obtained. It is also specifically mentioned that in case, charge-sheet is not served within three months, the employee should be eligible for reinstatement. Counsel for the petitioner herein points out that by an order dated

31.12.2020 (Annexure P-5) the petitioner had been placed under suspension with immediate effect on account of his alleged involvement in FIR No.129 dated 07.08.2018, under Sections 307, 323, 324, 326, 341, 201, 218, 120-B read with Section 34 of Indian Penal Code and Section 27 of Arms Act, registered at Police Station City Kotkapura, District Faridkot. Counsel for the petitioner would submit that there are catena of judgments available wherein, it has been held that the period of suspension should not be extended beyond the period of three months, if within that period charge-sheet is not served upon the delinquent employee. He would rely upon judgment rendered by the Supreme Court in case *Ajay Kumar Choudhary vs. Union of India, 2015(3) CT 107*. Counsel would also rely upon orders passed in CWP No.11468 of 2016 wherein, this court by taking into account the delay in issuance of charge-sheet, had stayed the suspension order, which order stands implemented and the petitioner in that writ petition namely Charanjit Sharma had been reinstated in service. Counsel for the petitioner would further contend that the petitioner was nominated as an accused in the aforesaid FIR on the basis of an investigation done, which proceedings were ultimately challenged before this Court in CWP No.17459 of 2018, decided on 09.04.2021 wherein, aforesaid FIR No.129 dated 07.08.2018 and the charge-sheet filed, are quashed. It is contended that once the FIR itself stands quashed, it is unreasonable on the part of the Government not to revoke his suspension order. It is also argued that co-accused, who had been nominated as accused in the aforesaid FIR No.129 dated 07.08.2018, already stands reinstated by an order dated 26.02.2021 (Annexure P-7).

Notice of motion.

At this stage, Mr. C.L. Pawar, Sr. DAG Punjab, accepts notice on behalf of the respondent-State. He would contend that the petitioner herein had been nominated as an accused under the aforesaid FIR by the Special Investigation Team (SIT) and that is why, he was placed under suspension by the impugned order. Learned State counsel would submit an advice had been sought from the Legal Officer on 01.06.2021 and that opinion is yet to find approval of the authorities concerned.

I have heard learned counsel for the parties and have also perused the pleadings of the case.

The limited prayer made by the petitioner herein is that he be reinstated in service and given all consequential benefits, by recalling the suspension order. It has been submitted that there are notifications available, which disallow the suspension to continue beyond the period of three months for issuance of charge-sheet. It is contended that the FIR in question, under which the petitioner herein had been nominated as accused, as well as which form the basis of his suspension order, has been quashed. However, this High Court in the said order dated 09.04.2021 passed in CWP No.17459 of 2019 has allowed the State to fairly investigate the matter again. It is an admitted fact that the petitioner herein has not been charge-sheeted as yet, as such, it would be appropriate to direct the authority concerned i.e. the Home Secretary, State of Punjab, to take a decision by passing a speaking order positively within a period of three weeks from today, whether or not the suspension order of the petitioner is to be recalled, keeping in view their own circular and the judgment, as passed by the

Supreme Court. Ordered accordingly. It would also be worthwhile to take note of the fact that the co-accused has been reinstated in service, by taking such a decision. Needless to say, before passing any order, the petitioner be called for a personal hearing.

The petition stands disposed of with the aforesaid directions.

March 22, 2022
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No