

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CWP-13050-2019

Date of Decision : March 22, 2022

Satpal

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(224-A)

CWP-14632-2019

Inderjeet Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ranjit Singh Kalra, Advocate, for the petitioner
(in both petitions).

Mr. Kannan Malik, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, two writ petitions, the details of which have been given in the heading of the order, are being decided as the question of law in these petitions, is the same.

Learned counsel for the petitioners argues that in the present case, the imposition of penalty was on the basis of the proposal and comments given by the Punjab Public Service Commission and the said proposal and comments were taken into consideration by the punishing authority without affording the petitioner an opportunity to give reply on the said proposal and comments of the Punjab Public Service Commission, which vitiate the punishment imposed. Learned counsel for the petitioners submits that the same question of law has already been considered by the Coordinate Bench of this Court while passing order in CWP No.21052 of 2017 and held that any comments received from the Punjab Public Service Commission, has to be afforded to the delinquent employee before passing an order of punishment so as to comply with the rules of natural justice and the challenge to the judgment of the Coordinate Bench of this Court has already been rejected by the Division Bench while passing order in ***LPA No.383 of 2019 titled as State of Punjab and others versus G.S. Sidhu decided on 20.02.2019***. Learned counsel for the petitioners further submits that the present case is squarely covered by the decision of the ***G.S. Sidhu's case (supra)***.

Learned State counsel submits that the order of punishment was passed keeping in view the recommendation of the Punjab Public Service Commission but, he has not been able to rebut the claim of the petitioners that the settled principle of law settled by the Division Bench in ***G.S. Sidhu's case (supra)***, cover the case of the petitioners in their favour as no differentiating fact has been pointed out to support the arguments.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

It is undisputed fact that the recommendation of the Punjab Public Service Commission wherein, the quantum of punishment was proposed along with the comments for the said proposal were never put to the petitioners before the same were accepted by the punishing authorities. Even the Punjab Public Service Commission never asked the petitioners to submit their comments before proposing the punishment. That being so, imposing punishment by the disciplinary authority by placing reliance upon the recommendation of the Punjab Public Service Commission, has clearly violated the rules of natural justice.

The Division Bench in ***G.S. Sidhu's case (supra)***, has held as under:-

“12. Learned counsel appearing for the appellant further could not dispute the factual position that neither the Punjab Public Service Commission granted any opportunity of hearing to the respondent herein nor the State Government granted any opportunity of hearing with regard to the approval received from the Punjab Public Service Commission for dismissal. The fact being undisputed again is in violation of the principles of natural justice as held by the Hon’ble Apex Court in the case of S.N.Narula v. Union of India and others 2011 SCC 591, relied upon by the learned Single Judge in the impugned judgment. Thus the learned Single Judge rightly set aside the order on the ground that the impugned dismissal order was passed in violation of the principles of natural justice.”

In the present case, in view of the facts and circumstances noticed hereinbefore, the case of the petitioners is covered in their favour keeping in view the finding recorded by Division Bench in ***G.S. Sidhu's case (supra)*** in paragraph 12. That being so, the impugned order of

punishment dated 19/23.05.2016 (Annexure P-9) cannot be sustained in the eyes of law.

Faced with this situation, learned counsel for the respondents submits that impugned order Annexure P-9 be treated as withdrawn with liberty to pass a fresh order after complying with the rules of natural justice.

Learned counsel for the petitioners submits that in view of the statement of the learned State counsel, no further grievance of the petitioners exists as the proposal of the State counsel is acceptable to the petitioners and the present petition may kindly be disposed of as not pressed any further.

Ordered accordingly.

It is made clear that in case, the petitioners are aggrieved against any order to be passed afresh by the respondents, they can avail their remedy available to them in accordance with law.

The deductions, which have been made from the pensions of the petitioners, be refunded to the petitioners within a period of two months of the receipt of copy of this order.

March 22, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No