

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 2380-2016 (O&M)
DATE OF DECISION:22.09.2022

Phool Singh

...Petitioner

Versus

State Election Commission Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.S. Chauhan, Advocate,
Mr. Rohit Sapehya, Advocate and
Ms. Deepika Chauhan, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, inter alia, is for issuance of a writ in the nature of certiorari for quashing the impugned order dated 29.10.2014 (Annexure P-8) passed by the respondent No. 2 and order dated 08.04.2015 (Annexure P-10), passed by the appellate authority.

2. Succinct facts first. Petitioner-Phool Singh working as Driver in State Election Commission was placed under suspension vide office order dated 18.04.2014 (Annexure P-3). Further a charge sheet dated 30.04.2014 (Annexure P-4) was also served upon him under Rule 7 of the Haryana Civil Services (P&A) Rules, 1987. Petitioner filed his reply dated 29.05.2014 (Annexure P-4/A) in response to the charge sheet but the same was not found to be satisfactory and vide office order dated 30.06.2014, Sh. Om Prakash Gupta, learned District and Sessions Judge (Retd), was appointed as an Enquiry Officer for conducting departmental inquiry for the charges framed

against the petitioner. After completion of the inquiry, charges were proved against the petitioner and a notice was served upon him to file reply/representation. The petitioner submitted his representation on 30.09.2014 (Annexure P-7/A) and denied the charges framed against him but he could not convince the authority with his representation/reply and the Punishing Authority imposed the penalty of compulsory retirement upon him vide impugned order dated 29.10.2014 (Annexure P-8). Aggrieved against the said order, the petitioner filed an appeal before the State Election Commissioner, Haryana, and the same was also dismissed vide impugned order dated 08.04.2015 (Annexure P-10) holding that the petitioner deserves higher punishment such as dismissal or removal from services.

3. Heard.

4. I am unable to persuade myself to agree with the arguments of the learned counsel for the petitioner that merely because the punishments have been provided in *Rule 4* in seriatim 1 to 5 in the ascending order of the harshness, therefore, the punishing authority must record reasons while choosing the harshest of those, as to why the lesser punishment has not been accorded. Rule 4 does not envisage so. It is also not required in any case for the punishing authority to record reasons as to why it is exercising its discretion to choose any of the punishments provided in the Rule as the same would go against the very concept of having the discretionary powers, which had been provided as per rule unless the Rule is under challenge which is not the case herein. That apart, three authorities below have already applied their mind on the delinquency of the petitioner i.e., the inquiry Officer, followed by the punishing authority, thereafter the appellate authority, and I do not find any ground now to interfere, since there is no violation of law pointed out except the ground taken that the facts have not been correctly appreciated

by any of the authorities below. That apart, the appellate authority in the concluding part of the appellate order has rightly observed as below: -

“In view of the facts of the case and on the basis of enquiry report, the official deserves for the penalty of removal from service, but taking a lenient view, the penalty of compulsory retirement from Government service is hereby imposed upon Sh. Phool Singh, Driver (under suspension). The suspension period shall be restricted to the subsistence allowance for the purpose of pay and allowances. It will be treated as non duty for other purpose.”

- 5. In view of the aforesaid, it seems that writ petitioner has already been meted out with a lenient treatment. I see no grounds to interfere in the extraordinary jurisdiction.
- 6. Petition stands dismissed.
- 7. Pending applications, if any, shall stand disposed of.

22.09.2022
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No