

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

CWP No. 9103 of 2015

Date of Decision : 11.05.2022

Vijay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashutosh Kaushik, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed with a prayer that the charge-sheet dated 09.03.2009 (Annexure P-2) as well as the punishment imposed on the said charge-sheet dated 28.10.2013 (Annexure P-6) and the order passed in appeal dated 02.02.2015 (Annexure P-10) be set-aside.

On 03.05.2019, the following order was passed by this Court:-

“Learned counsel for the petitioner contends that the petitioner was proceeded against for the various irregularities alongwith one Sh. Roshan Lal Moudgil, who was the superior authority of the petitioner and was also charge-sheeted for the same allegations. Learned counsel states that the punishment, which was imposed upon said Sh. Roshan Lal Moudgil, against whom, also the joint enquiry was conducted alongwith the petitioner on the same allegations has been set-aside by the District Judge, Kaithal and, therefore, once the punishment

against the superior authority on the same allegations has been set-aside, the same cannot be maintained against the petitioner.

Faced with this situation, learned counsel for the respondents seeks time to verify the facts and file an affidavit as to whether any person, who was proceeded alongwith the petitioner for the same allegations and the punishment imposed has been set-aside by the Competent Court of Law or not and whether the same judgment has attained finality or not?

Adjourned to 13.09.2019.”

In pursuance to the said order, a short affidavit dated 02.11.2020 has been filed, where the factum that the petitioner is similarly situated and the proceedings, which were jointly held against the petitioner along with one Sh. Roshan Lal Moudgil, have been set-aside, has not been denied. The only objection taken is that Review Petition has been filed in RSA No. 4060 of 2019 by the department in respect of the judgment, wherein same enquiry proceedings held jointly qua Roshan Lal Moudgil, has been held to be bad in law hence, the judgment in the case of Roshan Lal Moudgil has not attained finality so far.

Learned counsel for the petitioner submits that the review petition filed by the State in RSA No. 4060 of 2019 has also been dismissed.

Faced with this situation, learned counsel for the respondents submits that there might be a probability that the order passed by this Court in RSA No. 4060 of 2019 in the case of Roshan Lal Moudgil, might be tested before the Hon'ble Supreme Court of India but keeping in view the fact that petitioner is similar to Roshan Lal Moudgil, the benefit extended to Roshan Lal Moudgil by the competent Court of law will also be extended to

the petitioner subject to any order passed by the competent Court of law in the case of Roshan Lal Moudgil henceforth.

Learned counsel for the respondents submits that petitioner will also be extended the same benefit as similarly situated employee Roshan Lal Moudgil has been held entitled for by the competent Court of law in case, petitioner give an undertaking before the respondents that in case, judgment of Roshan Lal Moudgil is reviewed/modified in any manner by competent Court of law, the petitioner will also accept the same without raising any objection.

Learned counsel for the petitioner submits that petitioner will submit an affidavit that in case, he is treated in a similar fashion as Roshan Lal Moudgil by the respondent-department, he will also abide by the judgment of the competent Court of Law either passed or to be passed in case of Roshan Lal Moudgil henceforth.

Keeping in view the above, let the respondents consider the claim of the petitioner afresh in view of the judgment of the competent Court of law in the case of similarly situated employee Roshan Lal Moudgil and pass appropriate order within a period of two months from the receipt of copy of this order. In case, petitioner is also entitled for any monetary benefits after the case of the petitioner is re-considered, the same be also released to the petitioner within a reasonable time thereafter.

Petition is disposed of in above terms.

May 11, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No