

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

CWP-27303-2022 (O&M)

Date of Decision: 19.12.2022

Sant Ram

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manoj Chahal, Advocate
for the petitioner.

Mr. Pankaj Middha, Addl.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing order dated 29.01.2021 (Annexure P-5), whereby penalty of withholding of two increments with cumulative effect has been imposed on him.

2. Background of the case is that the petitioner was appointed as Beldar and then worked as Chowkidar since 1992 in Gujrani Water Services, Mech. Sub Division, Bhiwani. On the intervening night of 29/30.07.2019, a theft was committed by some unknown persons in the store of Jui Water Services, Mech. Sub Division, Bhiwani situated within the Central Workshop (Lohani) for which an FIR No.625 dated 01.08.2019 was also registered under Sections 380, 457 IPC at P.S. Sadar, Bhiwani by the J.E. and SDO, Jui Water Services, Mechanical Sub Division, Bhiwani. Petitioner was suspended due to negligence in performing his duties vide order dated 22.11.2019 (Annexure P-1). Charge-sheet dated 16.03.2020 (Annexure P-4) was issued which later led to awarding of punishment of stoppage of two increments with cumulative effect vide impugned order.

3. On advance service, the learned State counsel appears and objects to the maintainability of the writ petition on the ground that alternative remedy, as available under Rule 14 of the Haryana Irrigation Department Field (Group D) Service Rules, 1999, has not been exhausted by the petitioner. Said Rule is as under:-

“Discipline, Penalties and Appeals :

14. (1) On the matters relating to discipline, penalties and appeals, members of the Service shall be governed by the Haryana Civil Services (Punishment and Appeal) Rules, 1987, as amended from time to time:

Provided that the nature of penalties which may be imposed, the authority empowered to impose such penalties and the appellate authority shall, subject to the provisions of any law or rules made under Article 309 of the Constitution of India, be such as are specified in Appendix C to these rules.

(2) The authority competent to pass an order under clause (c) or clause (d) of sub-rule (I) of rule 9 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, and the appellate authority shall be as specified in Appendix D to these rules.”

4. In view of the objections raised by the learned State counsel, the petition is disposed of with liberty to the petitioner to seek alternative remedy of appeal, as aforesaid. Since the writ petition is being disposed of on the basis of objections taken by the learned State counsel, the appeal shall be entertained on merits. It shall not be dismissed on any technicalities that petitioner belongs to divisional staff and/or circle staff.

5. Pending civil miscellaneous application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 19, 2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No