

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

**CM-20193-CWP-2022 in/and
CWP-29139-2022 (O&M)
Date of Decision: 19.12.2022**

Anil Sharma

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.K. Malik, Advocate
for the petitioner.

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

ARUN MONGA, J. (ORAL)

CM-20193-CWP-2022

For the reasons stated, the application is allowed subject to all just exceptions.

CWP-29139-2022

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing order dated 06.10.2022 (Annexure P-6), whereby disciplinary action has been ordered to be initiated, and further for quashing memorandum dated 23.11.2022 along with statement of allegations and statement of charges dated 22.11.2022 (Annexure P-9).

2. Succinct facts first, as pleaded in the petition. Petitioner was appointed as Excise Inspector on 13.01.1994 in Excise and Taxation Department, Haryana. Later on, he was promoted as Assistant Excise and Taxation Officer (Excise) (AETO). From 08.06.2015 to 25.11.2020, the petitioner remained posted as AETO (Excise) at O/o DETC (Excise), Karnal and is, at present, working as AETO (Excise) in the O/o DETC (Excise), Fatehabad. On 18.06.2018, Deputy Excise and Taxation Commissioner (Excise), Karnal submitted the verified

mismatching entries of excise payment in the O/o Excise and Taxation Commissioner, Haryana, Panchkula. The latter, vide letter dated 16.06.2022 (Annexure P-2) asked DETC (Excise), Karnal and Sonipat to examine the case of mismatch for the period of 2017-2018 of District Karnal. DETC (Excise), Karnal submitted the Excise Mismatch Report of the relevant period to Excise and Taxation Commissioner, Haryana, Panchkula on 29.06.2022 (Annexure P-3) clarifying therein, that there were some typographical errors pertaining to the amount, but on scrutiny with manual record in M-2 register for the concerned year, the requisite amount was found to be deposited. Additional Chief Secretary, Govt. of Haryana, Excise and Taxation Department, Haryana issued letter dated 22.06.2022 (Annexure P-4) to the Excise and Taxation Commissioner, Haryana and to the Collector (Excise), Haryana to send intimation to DETC (Excise), Karnal and to the petitioner herein for personal hearing. Petitioner appeared before the Committee and submitted his reply dated 06.07.2022 (Annexure P-5).

2.1. However, even though the Mismatch Entries were explained by the petitioner, still vide impugned order dated 06.10.2022 (Annexure P-6), Additional Chief Secretary, Excise and Taxation Department asked the Excise and Taxation Commissioner, Haryana and the Collector (Excise), Haryana to initiate disciplinary and criminal action against the petitioner. Excise and Taxation Commissioner, Haryana, Panchkula vide order dated 11.11.2022 (Annexure P-7) asked Deputy Excise and Taxation Commissioner (Excise), Karnal to initiate criminal action against the petitioner. Aggrieved thereby, the petitioner approached this Court vide CWP No.27415 of 2022 which is still pending, wherein this Court passed interim order dated 01.12.2022 (Annexure P-8) and made it clear that the

impugned administrative decision *qua* lodging a criminal case is not to be treated as a direction *per se* to the police machinery and, competent police officials were directed to proceed by applying their independent mind in accordance with law as envisaged under the Code of Criminal Procedure.

2.2. Now, the respondents have issued memorandum dated 23.11.2022 alongwith statement of allegations and statement of charges dated 22.11.2022 (Annexure P-9), which are impugned herein.

3. On advance service, the learned State counsel appears and opposes the petition.

4. Substantially, the argument of the learned counsel for the petitioner is premised on the ground that he has been served with impugned statement of allegations and charges (Annexure P-9), whereby further proceedings have been initiated based on the same set of allegations, the statement of charges and the alleged delinquency for which simultaneously, the criminal proceedings have also been directed to be initiated vide letter dated 11.11.2022 (Annexure P-7)

5. I have heard the learned counsel for the parties. Having heard the learned counsel for the petitioner, I am unable to persuade myself to quash the departmental proceedings merely because simultaneous criminal proceedings are contemplated. On a Court query, it transpires that no formal FIR has been registered so far.

6. Be that as it may, writ petition is disposed of as premature with liberty to the petitioner to take all the defense including the grounds set-up herein before the competent authority and it is expected from the competent authority to look into the same before proceeding further, after applying its independent mind on the same.

7. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

December 19, 2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No