

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101) CM No.14492 of 2023 in/and
CWP No.3052 of 2003 (O&M)
Date of Decision : 11.09.2023

Chiranji Lal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gunjan Mehta, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM No.14492 of 2023

The present application has been filed for fixing an actual date of hearing in the present writ petition.

Notice of the application be issued to learned counsel for the respondents.

Mr. Pankaj Middha, Additional Advocate General, Haryana, who is present in the Court accepts notice and raises no objection in case the writ petition is heard and decided on any date as fixed by this Court.

On the joint request of learned counsel for the parties,

application is allowed. The writ petition is taken up for hearing today.

CWP No.3052 of 2003

1. The present petition has been filed challenging the order dated 08.03.2001 (Annexure P-1) as well as order dated 27.04.2002 (Annexure P-3) by which the services of the petitioner were terminated after holding an enquiry.

2. In the present petition, a chargesheet was served upon the petitioner alleging that the petitioner remained absent from duty without their being any valid justification. As per the chargesheet, the petitioner willfully remained absent from duty since 19.02.2000. During the enquiry, the allegations were proved against the petitioner and after giving him the show cause notice dated 11.12.2000, appropriate order of punishment was passed by the Punishing Authority on 08.03.2001 (Annexure P-1) dismissing the petitioner from service. Thereafter, the petitioner filed an appeal before the Appellate Authority, which also came to be dismissed on 27.04.2002 (Annexure P-3), which order has been impugned in the present petition.

3. Learned counsel for the petitioner argues that in the present petition, the petitioner was not given due opportunity to defend himself. On being asked to support the said argument on the basis of the record, the learned counsel for the petitioner has not been able to point out any such objection taken while replying to the show cause notice given to the petitioner or in the appeal preferred by the petitioner against the order of punishment. Rather, all the arguments raised were on factual aspect that as a relative of the petitioner was not well, due to which the petitioner could not attend the duty. That being so, the argument that the petitioner was not given due opportunity to defend himself cannot be accepted being not supported by any document. Even otherwise, the allegations have been proved by the

enquiry officer in the enquiry report. The said enquiry report is not under challenge so as to ascertain as to whether, the allegations that the enquiry conducted against the petitioner was without following the Rules of Natural Justice. Hence, in the absence of any challenge to the enquiry report, the argument that the enquiry proceedings were not conducted in a manner required for cannot be accepted.

4. The last argument which has been raised by the learned counsel for the petitioner is that alongwith the show cause notice, the petitioner was not given the copy of the enquiry report. This contention is incorrect as the respondents in para 5 of the reply have mentioned that the show cause issued to the petitioner was along with the enquiry report but the petitioner never submitted any reply to the said show cause notice. The said averment has not been rebutted by filing any replication.

5. Even in the appeal filed, no such ground has been taken by the petitioner. Once, the respondents have categorically stated in para 5 of the reply that the enquiry report was given to the petitioner which has gone unrebutted coupled with the fact that the petitioner has not raised the said ground while filing the appeal and rather, no reply to the show cause notice was ever filed by the petitioner, the said factual aspect cannot be allowed in favour of the petitioner. That being so, it cannot be said that the enquiry report was not given to the petitioner as being argued.

6. Learned counsel for the petitioner at this stage submits that the punishment imposed upon the petitioner is disproportionate to the charges alleged. It may be noticed that in the present petition, the petitioner is a Driver of the Haryana Roadways. His duty was to see that the general public get the transport as and when required. The petitioner remained absent from

duty without any valid justification. The same has already been considered by the authorities concerned and passed appropriate order.

7. Even otherwise, the jurisdiction of the Court is to interfere only where the punishment is shockingly disproportionate to the allegations alleged. Once, the petitioner has stopped working and remained absent from duty and the said allegation has been proved, it cannot be said that the punishment imposed upon the petitioner is shockingly disproportionate to the charges alleged against him.

8. No other argument has been raised.

9. Keeping in view the above, as the authorities have already passed appropriate orders considering the claim of the petitioner keeping in view the allegations alleged and proved, no interference is being called for by this Court.

10. Dismissed.

September 11 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No