

**CWP-936-2023 (O&M)
Date of decision-18.01.2023**

Surjit Singh

...Petitioner

Vs.

U.T. Chandigarh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Divya Sharma, Advocate,
for the petitioner.

Ms. Ruchi Sekhri, Additional Standing Counsel alongwith
Ms. Shubhreet Kaur, Junior Panel Counsel,
for the respondents-U.T. Chandigarh.

MANOJ BAJAJ, J. (Oral)

Petitioner-Surjit Singh has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of impugned order dated 13.12.2022 (Annexure P-1), whereby the petitioner was discharged from the rolls of Home Guards Organization, Chandigarh by respondent No.5.

The facts in brief as pleaded in the writ petition are that the petitioner was enrolled as Home Guard Volunteer with Chandigarh Home Guards Organization in November, 1999, who continued to work till his arrest on 11.09.2021 in case FIR No.25 dated 25.02.2020, under Sections 420, 468, 471, 120-B Indian Penal Code, 1860 and Sections 13(1)(b) and 12(2) of the Prevention of Corruption Act, 1988 at Police Station Sector 3,

Chandigarh. After his arrest, the petitioner remained in custody till he was released on regular bail vide order dated 12.10.2022 (Annexure P-6). Since the petitioner was not reporting for duty at Police Head Quarter, Chandigarh, a Show Cause Notice dated 12.10.2021 (Annexure P-2) was issued to him, seeking his response as to why disciplinary action be not initiated against him. Thereafter, another Show Cause Notice dated 13.10.2021 (Annexure P-3) was issued, thereby asking him as to why he be not discharged from the Home Guards Organization, which was followed by another Show Cause Notice dated 25.04.2022 (Annexure P-4) on similar lines. The petitioner in response to this notice submitted his reply dated 29.04.2022 (Annexure P-5), thereby disclosing the fact of his confinement in custody pursuant to the above noticed FIR. As per reply, he refrained from revealing any response to the show cause notice on merits on the ground that it would hamper his defence in the criminal trial. The respondent No.5 vide impugned order dated 13.12.2022 (Annexure P-1) discharged the petitioner-Surjit Singh, while re-enrolling some other Home Guard Volunteers in service. Hence, this writ petition.

Learned counsel has argued that the petitioner had been working with respondent No.5 as Home Guard Volunteer for a long time, but he has been discharged without following any procedure, much less by affording any opportunity of hearing to him, and the impugned order is non speaking. She submits that the petitioner was falsely implicated in the criminal case and the respondent No.5 while discharging the petitioner from service has not followed the provisions contained in Punjab Home Guards Rules, 1963. Learned counsel has drawn the attention of the Court to

Section 9 (b)27 of the aforesaid Rules, to contend that the petitioner could not have been dismissed unless reasons of dismissal are recorded in writing or opportunity of showing cause to the petitioner against the proposed action. Learned counsel has further referred to the final report under Section 173 (2) Cr.P.C. filed against the petitioner to submit that the co-accused, namely, Narender Kumar, who was implicated with the petitioner, has been found innocent, therefore, this shows that the petitioner has been falsely implicated and without considering this, the impugned order dated 13.12.2022 (Annexure P-1) has been passed. She prays that the impugned order be set aside and further a writ in the nature of mandamus be issued directing the respondents to re-enroll the petitioner as Home Guard Volunteer with the Home Guard Organization, Chandigarh.

After hearing the learned counsel and considering the submissions, this Court does not find any merit in the arguments advanced that the impugned order is non speaking, therefore, the same is not sustainable, because prior to passing of this order, three show cause notices were served upon the petitioner as he absented from duty w.e.f. 11.9.2021. The petitioner refrained from responding to the first two show cause notices dated 12.10.2021 and 13.10.2021, however, when he submitted his reply to the third show cause notice, he disclosed his implication in criminal case bearing FIR No.25 dated 25.02.2020, under Sections 420, 468, 471, 120-B Indian Penal Code, 1860 and Sections 13(1)(b) and 12 (2) of the Prevention of Corruption Act, 1988 at Police Station Sector 3, Chandigarh, and requested that the proceedings be kept in abeyance till his release from the prison.

Thus, once, the authorities were apprised by the petitioner about his involvement in criminal case and confinement in jail, it cannot be said that the discharge of the petitioner from his service through impugned order is without any justifiable reason. The implication of the petitioner in a criminal case relating to the Prevention of Corruption Act, 1988, wherein he was sent to face trial through final report dated 7.12.2021, itself shows that there were legitimate reasons for the competent authority to dispense with the services of the petitioner.

Further, the other argument raised by the learned counsel that the petitioner was falsely implicated as his co-accused namely Narender Kumar has not been sent to face trial has no relevance, as the trial is pending and the prosecution is in the process of discharging the onus, therefore, it would not be appropriate for this Court to examine this aspect.

Resultantly, finding no merit, the writ petition is dismissed.

(MANOJ BAJAJ)
JUDGE

18.01.2023

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No