

2023:PHHC:164057
CWP-2823-2022 (O&M)
Date of Decision: 20.12.2023

Gurpreet Singh Sidhu

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Suneet Singh Deol, Advocate for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner was charge sheeted under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, for major penalty.
2. The petitioner submitted a reply and thereafter the disciplinary authority obtained comments from the Director, Agriculture and Farmers Welfare Department, Punjab and relying upon such comments, the Additional Chief Secretary, Government of Punjab, proceeded to pass an order holding the petitioner guilty for not filing reply after a delay of three years.
3. The submissions of the petitioner and the reply of the Director, Agriculture and Farmers Welfare Department, Punjab, were taken into consideration and a punishment of stopping his two annual grade increments was passed with further warning to perform his duties responsibly in the future.

4. The order, *prima-facie*, appears to be an order passed for minor penalty imposing stoppage of two annual increments without cumulative effect but the order does not mention whether increments have been stopped with cumulative or without cumulative effect.

5. Keeping in view the fact that the charge sheet was issued for major penalty and no Enquiry Officer was appointed nor inquiry report was made available and further the action was taken based on the report of the Director, Agriculture and Farmers Welfare Department, Punjab and the reply filed by the petitioner to the charge sheet, this Court is of the firm view that the order of punishment imposing stoppage of two grade increments was without cumulative effect as procedure for minor penalty was adopted.

6. In view thereof, no interference is warranted as the petitioner has been given fair opportunity of being personally heard. Even the comments of the Director, Agriculture and Farmers Department, Punjab, were made available to the petitioner.

7. Learned counsel for the petitioner submits that no case is made out against the petitioner as the reply filed by the petitioner clearly reflects that the charges were not made out against him. However, the said aspect cannot be examined while examining the punishment order in writ jurisdiction as this Court does not sit in appeal. The only aspect which this Court would examine is whether the procedure was followed and principles of natural justice were given due adherence. In the present case, even opportunity of personal hearing was provided to the petitioner. Therefore, this Court would not substitute its opinion to that of the disciplinary authority. In view of the judgment passed by the Hon'ble Supreme Court, in

the case of Union of India vs. Subrata Nath 2023 (1) SLJ 97, this Court does not deem it appropriate to interfere with the punishment order. However, the punishment shall be only treated as a minor punishment. The two annual grade increments which have been stopped, would be without cumulative effect. The effect of stopping such increments would therefore be in operation from 2019-2020 and 2020-2021 alone.

- 8. In view of the above, the writ petition is partly allowed.
- 9. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

20.12.2023
rajesh

- 1. Whether speaking/reasoned? : Yes/No
- 2. Whether reportable? : Yes/No