

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

CWP-5935-2020 (O&M)

Date of decision: 08.02.2023

Surinder Kumar

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sunny Singla, Advocate for the petitioner

Mr. R.K. Kapoor, Addl. AG, Punjab

ANIL KSHETARPAL, J (Oral)

1. Through this writ petition, the petitioner prays for the following substantive reliefs:-

“(ii) For the issuance of a writ, order or direction especially in the nature of Certiorari for quashing the charge sheet dated 22.11.2019 (P-5) vide which the petitioner has been charge sheeted for providing wrong information under RTI Act 2005 and order dated 17.12.2019 (P-9) vide which the punishment of stoppage of two annual increments with cumulative effect has been imposed on the petitioner in illegal, arbitrary and discriminatory manner, against the principles of natural justice and also contrary to the law laid down by the Hon’ble Supreme Court and Hon’ble High Court and further praying for quashing of the order dated 27.01.2020 (P-10) and order dated 31.01.2020 (P-11) whereby the extension granted to the petitioner from 01.06.2019 to 31.05.2020 was cancelled.

(iii) Further praying an ad-interim stay of the order dated 27.01.2020 (P-10) whereby the extension granted to the petitioner from 01.06.2019 to 31.05.2020 was cancelled and order dated 17.12.2019 (P-9) vide which the punishment of stoppage of two annual increments with cumulative effect has been imposed on the petitioner.”

2. Admittedly, pursuant to the interim order granted by the

Court on 03.03.2020, the petitioner has already availed the benefit of extension of the period of service, granted to him, after attaining the normal age of superannuation. The petitioner has already retired after the completion of the extension period.

3. The second grievance of the petitioner is with respect to the order dated 17.12.2019 passed by the Secretary, School Education. This order was passed after holding a departmental enquiry.

4. Learned counsel representing the State of Punjab admits that the punishment awarded to the petitioner falls within the scope of a major penalty as defined under Section 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. He also admits that no departmental inquiry was held, though it was mandatory.

5. It is evident that the Secretary, School Education, has passed the order only because the delinquent employee (the petitioner) did not submit a reply. A statement of charges is required to be proved in accordance with law. The imputations made against the delinquent official in the memorandum of charges cannot be deemed to have been admitted only on the ground that no reply has been filed. It is still incumbent upon the employer to substantiate the charges imputed against the delinquent employee.

6. Furthermore, the petitioner is stated to have supplied wrong information under the Right to Information Act, 2005, with regard to the number of vacancies of the post of PTI lying vacant in the Department, which has led to the embarrassment of the officer in the contempt petition.

7. Learned counsel representing the petitioner submits that the petitioner supplied the information on the basis of the information which was available on the website maintained by the Department.

8. The petitioner has already retired after duly serving the Government of Punjab during his entire service career including the period of extension. In these circumstances, it is not considered appropriate to set aside the order only on technical ground and grant liberty to the Government to start de-novo proceedings against the petitioner at this stage. Consequently, the order dated 17.12.2019 is set aside. The Government is directed to pay the consequential benefits to the petitioner within a period of 2 months, from today.

9. The petition stands allowed.

10. All the pending miscellaneous applications, if any, are also disposed of.

08.02.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE