

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

(249)

CWP-6589-2021

Date of Decision : December 11, 2023

**Darshan Sharma****.. Petitioner****Versus****State of Haryana and another****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rahul Sharma-I, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the grievance of the petitioner is that punishment of 15% cut in pension for two years has been imposed upon the petitioner being guilty of careless and immature conduct being a Medical Officer of her standard.

2. Learned counsel for the petitioner submits that the only allegation alleged against the petitioner was that while preparing one MLR, certain cuttings were done in the MLR, which made no difference in the reading of the said MLR but the petitioner was held guilty on the ground that when the MLR is presented with cutting, the credibility of the same is doubted and gives a chance of debate during the prosecution of an accused.

3. Learned counsel for the petitioner further submits that even if the said charge is said to be proved on its face value, then also, no financial

loss has been caused by the petitioner and the punishment has been imposed upon the petitioner after retirement vide order dated 27.12.2018 (Annexure P-12) by which, 15% cut has been imposed in pension for a period of two years, which is totally disproportionate to the charges alleged and proved.

4. Learned counsel for the respondents submits that though it is a conceded fact that there is no charge of misappropriation or causing loss to the state exchequer but the petitioner was careless in writing an MLR, which can harm a prosecution during the trial.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a settled principle of law that the punishment has to be imposed keeping in view the charges alleged and proved. In the present case, the only charge which has been proved is that the petitioner was careless while writing the MLR. Once, the only charge proved is carelessness without there being any intent of mala fide so as to give any benefit either to prosecution or to defendant, the punishment should also be proportionate to the charges alleged and proved.

7. In the present case, 15% of the pension has been cut for a period of two years. Once, there is no allegation of the misconduct involving the financial aspect or causing loss to the state exchequer, the cut in pension and that too to the tune of 15% for a period of two years is totally harsh and disproportionate to the charges alleged. The authorities concerned have to apply their mind while imposing the punishment hence, as the punishment imposed upon the petitioner keeping in view the charges alleged and proved is totally disproportionate, the same is set aside.

8. The directions are issued to the respondents to consider the imposition of punishment afresh and pass appropriate order keeping in view

the nature of charges alleged and proved especially that the petitioner had already retired from service. Let the fresh order be passed within a period of two months. Any benefit which will accrue under this order will depend upon the fresh order to be passed. If after passing the fresh order, the petitioner is entitled for any financial benefits, the same will also released within a further period of eight weeks.

9. The present writ petition is allowed in above terms.

**December 11, 2023**

*harsha*

**(HARSIMRAN SINGH SETHI)**

**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No