

214

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

CWP No. 7256-of 2022

Date of Decision: 17.02.2023

Ran Singh Poonia

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sunil K. Nehra, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of ***Certiorari*** for quashing the order dated 29.03.2022 to the extent it relates to the petitioner vide which decision has been taken by the respondent No.1 to take disciplinary action against the petitioner and withholding the complete retiral benefits till finalization of the disciplinary proceedings.

The petitioner has also prayed for the issuance of directions to the respondents to release all the pensionary benefits of the petitioner along with interest as the petitioner has already retired on 31.03.2022. The petitioner was working as

General Manager, Haryana Roadways, Sirsa when a nationwide call for strike was given by the leaders of the Union for going on strike from 28.03.2022 to 29.03.2022.

Learned counsel for the petitioner submits that when the petitioner came to know about the aforesaid call of the strike, he immediately passed an order dated 22.03.2022 to the Assistant District Attorney of the Depot and Law Branch for getting the stay from the Court against strike. Accordingly, a suit for permanent injunction was filed in the Court of Civil Judge (Senior Division) Sirsa by the petitioner as General Manager against the Union for restraining the defendants therein from going on strike. The Civil Court passed an order dated 25.03.2022 and the defendants in the suit were restrained from holding any meeting, demonstrations, sitting on Dharna in an around the campus of the plaintiff therein within a radius of 100 meters and also from interfering with the right of the plaintiff, its staff, drivers, visitors, clerks etc. and also from damaging the building or from preventing entry of other workers till further orders. On 25.03.2022, an order was passed by the Director State Transport Haryana, which was addressed to all the General Managers, Haryana Roadways mentioning that precautionary measures be taken to prevent happening of any untoward incident. On 25.03.2022 itself the petitioner wrote to

the Deputy Commissioner, Sirsa for mentioning the call for strike given by the leaders on 28.03.2022 and 29.03.2022, there is every likelihood of damage being caused to the vehicles and blocking of routes of the buses by the striking employees. Request was made to the Deputy Commissioner for providing adequate police force at the bus stand and Sub-Depots for the security purposes and if required Section 144 of Cr.P.C was sought to be imposed at the vicinity of 200 meters from the bus stands and workshops.

On 25.03.2022, itself the petitioner passed an order and appointed two nodal officers i.e. one for Sirsa and second for Sub-Depot, Dabwali and directed them to keep strict vigil on all the bus stands and workshops and give timely intimation to the petitioner in writing or telephonically. The petitioner again passed an order on 25.03.2022 itself thereby fixing the duties of the officers with specific directions that happening of any incident be intimated to him promptly. Petitioner also passed an order that no employee be given leave or rest for the same date and the leave and rest granted shall be treated to be cancelled.

The petitioner also passed an order fixing the duties of various officers so that no inconvenience is caused in the process of plying the buses. On the request of the petitioner, the Deputy Commissioner-cum-District Magistrate, Sirsa vide order

dated 27.03.2022 passed an order appointing Duty Magistrate for the particular area after passing an prohibitory order imposing Section 144 Cr.P.C on 26.03.2022. Inspite of best efforts made by the petitioner and prompt action taken by the the District Administration, the striking employees blocked the ingress and egress of the bus stand by stationing the bus at the gate and the striking employees did not allow the buses to operate thereby causing inconvenience to general public. The police instead of using force against the striking employees tried to resolve the matter amicably.

On 29.03.2022 the workers, who had participated in the strike and caused disruption in the smooth plying of the buses were immediately placed under suspension by the petitioner. The petitioner has also got lodged an FIR against those striking employees, who were involved in the process of disruption on 28.03.2022 and made a communication to that effect to the Director State Transport Haryana on 29.03.2022. The petitioner stood retired on 31.03.2022 on attaining the stage of superannuation. Eventually, the strike was held on 28.03.2022 and an order of issuing charge-sheet was issued by the respondent No. 1 on 29.03.2022 i.e. two days prior to the retirement of the petitioner. Factual position of the case has not been denied by the respondent which has been duly brought on

record by the petitioner with the help of annexures. In the written statement, the factum of issuing orders and taking steps has not been denied.

The grievance of the petitioner is that despite taking all preventive steps, the petitioner has been victimized by forcing him to face departmental action thereby withholding his retiral dues. The impugned order has been passed against four General Managers of different districts including the petitioner for failure to comply with the directions issued by the Director State Transport, Haryana dated 25.03.2022 and showing incompetence and ensuring proper bus service to the commuters during nationwide strike of the employees on 28.03.2022 and 29.03.2022.

Learned counsel for the petitioner further submits that the charge-sheet has been issued under Rule 7 of the Haryana Civil Services (Punishment and Appeal Rules), 2016 which is in utter violation of Rule 7-A5 which mandates that in case the competent authority is satisfied with the written statement of defence given by the charged person, it may drop the charge-sheet without resorting to the procedure of conducting enquiry. Similarly, if the competent authority after considering the written statement of defence of the charged person is of the opinion that awarding of minor punishment shall meet the ends of

justice, then the authority competent may award minor punishment following the procedure of conducting the enquiry.

In the instant case, strike was held on 28.03.2022 and the impugned order of issuing charge-sheet was passed on 29.03.2022 i.e. two days prior to the retirement of the petitioner. No notice was issued to the petitioner before contemplated action in the form of impugned order in terms of Rule 7A of the Haryana Civil Services (Punishment and Appeal Rules) 2016.

In the written statement filed on behalf of respondents No.1 to 3, memo letter dated 19.05.2012 has been attached in the context of charge sheeting the petitioner. The issuing of the aforesaid letter is after the retirement of the petitioner on 31.03.2022. Along with the written statement, the respondents have also attached a tabulated information in respect of individual performances of all the General Managers in handling the operations of buses during the strike. According to the information submitted total strength of the buses could not ply in other Depots as well. In some districts even actual operation was negligible as compared to total number of buses scheduled to operate on 28.03.2022. In cases of Haryana Depots at Bhiwani, only 43 buses could operate as against 116 total number of buses. In case of Hisar, only 43 buses could ply as against total 179 buses. No action (as alleged by the

petitioner) has been taken against the General Manager of Haryana Roadways, Bhiwani and Hisar.

A perusal of the record shows that all the preventive steps were taken by the petitioner by seeking timely help from the District Administration as well as by seeking injunction from the Civil Court. The petitioner had also issued number of directions to the lower staff in order to ensure that no hurdle is caused in smooth plying of buses. The passing of an order, charge sheeting the petitioner on the next date of the strike, particularly two days prior to his retirement in my considered opinion is penal and harsh in consequence. The impugned order is found to be totally illegal in terms of Rule 7 of the Haryana Civil Services (Punishment and Appeal Rules) 2016 and is hereby quashed.

All the consequential proceedings arising therefrom are also quashed. Normal consequences to follow.

(RAJ MOHAN SINGH)
JUDGE

17th February, 2023

sapna

Whether speaking/reasoned Yes/No

Whether reportable Yes/No