

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-1373-LPA-2023 and
CM-1375-LPA-2023 in/and
LPA-511-2023 (O&M)
Date of Decision: 01.05.2023

Jiwanjot Kaur
..... Appellant

Vs.

State of Punjab and another
..... Respondents

CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS JUSTICE SUKHVINDER KAUR

Present Dr. Anmol Rattan Sidhu, Sr. Advocate with
Ms. Tejaswini, Advocate
for the appellant.

M.S. RAMACHANDRA RAO, J. (Oral)

CM-1373-LPA-2023

1. This application is filed by the applicant-appellant seeking condonation of delay of 42 days in filing the Appeal.
2. Notice in this application.
3. Mr. Abhaypal Singh Gill, DAG Punjab accepts notice on behalf of State and states that he has no objection if the said delay of 42 days is condoned.
4. Having regard to the reasons assigned in the application, and having regard to the fact that the learned State counsel has no objection if this

application is allowed, this application is allowed and the delay of 42 days in filing the accompanying Appeal is condoned.

CM-1375-LPA-2023

5. Having regard to the reasons assigned in the application, this application is allowed.

LPA-511-2023 (O&M)

6. This LPA is preferred against judgment dt.15.02.2023 passed by learned Single Judge in Writ Petition bearing No.CWP-3119-2023.
7. The said Writ Petition had been filed by the appellant (herein) challenging a proceeding dt.30.09.2022 (P-4) issued by the Deputy Secretary, Personnel of the Government of Punjab.
8. Admittedly, a charge-sheet had been issued to the appellant on 23.08.2021 alleging certain misconduct by her. Thereafter, an enquiry officer was appointed and he submitted a final enquiry report on 13.07.2022 exonerating the appellant.
9. Thereafter, the impugned proceeding (P-4) dt.30.09.2022 was issued by the Deputy Secretary, Personnel finding fault with the enquiry report in some respects, and informing that the Government had decided to refer the enquiry again to the enquiry officer for conducting the enquiry.
10. Assailing the same, the appellant had filed the Writ Petition.
11. Before the learned Single Judge, the appellant had contended that a disciplinary authority cannot order a *de novo* enquiry though it is permissible to direct further enquiry once the enquiry officer in a disciplinary proceedings submits a report. He also admitted that in the instant case, the communication dt.30.09.2022 has not ordered a *de novo*

enquiry or fresh enquiry. On that basis, the learned Single Judge dismissed the Writ Petition.

12. Dr. Anmol Rattan Sidhu, Sr. counsel, appearing for the appellant contends that Annexure P-4 proceeding dt.30.09.2022 could not have been issued because the enquiry report fairly dealt with all the aspects of the matter.
13. However, he does not dispute the legal proposition that it is open to a disciplinary authority to disagree with the findings of an enquiry officer in an enquiry report and ask him to re-examine the matter.
14. In our considered opinion, that is what has been done in the impugned proceeding (P-4) dt.30.09.2022.
15. However, we are not going into the correctness of the reasons assigned in the impugned order at this stage, because neither has the appellant been exonerated by the disciplinary authority nor a punishment has been imposed upon him; and the stage for interference by this Court would arise only in the event the impugned order results in a fresh enquiry proving the misconduct against the appellant and a punishment is imposed upon him, which is then challenged before this Court.
16. That stage not having been reached, we are of the opinion that it is not appropriate for us to express any opinion on what is mentioned in the order (P-4) dt.30.09.2022.
17. We therefore affirm the order of the learned Single Judge, and leave it open to the appellant to challenge the said proceeding dt.30.09.2022 in the event of the enquiry officer in future submitting an enquiry report adverse to the appellant, and in the event the disciplinary authority finding the appellant guilty of the misconduct, when such misconduct is challenged before the Court.

- 18. Accordingly, this LPA stands disposed of.
- 19. Pending application(s), if any, also stands disposed of accordingly.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

May 01, 2023
Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |