

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-12819-CWP-2023
CM-12820-CWP-2023 in/and
CWP-10521-2023
Date of Decision : 09.08.2023

Ashok Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.K. Malik, Sr. Advocate with
Mr. Samrat Malik, Advocate
for the petitioner.

Harsimran Singh Sethi, J. (Oral)

CM-12820-CWP-2023

The present application has been filed to place on record short replication in reply to the written statement filed by respondent No.3.

Notice of the application.

On the asking of the Court, Mr. Pankaj Middha, Addl. A.G., Haryana, who is present in the Court accepts notice on behalf of the respondent-State and Mr. Hitesh Pandit, Advocate accepts notice on behalf of respondent No.3.

As prayed for by the learned counsel for the parties, the application is allowed and replication is taken on record subject to all just

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exceptions.

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The present application has been filed for not withholding the promotion of the petitioner due to disciplinary proceedings which has been initiated by an incompetent authority.

Learned Senior counsel appearing on behalf of the petitioner submits that he is ready to address the arguments on the main petition today.

Learned counsel for the respondent-Corporation raises no objection in case the hearing of the main petition is preponed to today from 06.09.2023.

The application stands disposed of by preponing the hearing of the main case to today itself.

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The present petition has been filed challenging the charge-sheet dated 20.04.2023 (Annexure P-3) on the ground that the authority which is not competent to issue the charge-sheet, has issued the same and further the promotion of the petitioner should not be withheld due to the said disciplinary proceeding initiated by an incompetent authority. As per the facts mentioned in the petition, the petitioner was recruited as Deputy Forest Ranger by way of direct recruitment by the State of Haryana and joined service as such on 21.10.2000. On 08.02.2008, the petitioner was appointed as Forest Ranger on which post the petitioner is still holding his lien.

The petitioner was sent on deputation to the Haryana Forest Development Corporation Limited on 27.03.2018 to work as a Manager i.e. the post which is equivalent to that of a Forest Ranger, on which the petitioner was working in the parent department. While working on

deputation, the Corporation found that certain irregularity has been committed by the petitioner and keeping in view the said irregularity, a charge-sheet was issued to the petitioner on 20.04.2023, copy of which has been appended as Annexure P-3. The said charge-sheet is under challenge in the present petition on the ground that the charge-sheet has been issued by an incompetent authority.

In reply filed by the respondent-Corporation, it has been averred that the petitioner is working on the post of a Manager, of which post, the Managing Director of the Corporation is the appointing authority and hence, the charge-sheet issued by the Managing Director of the Corporation is within his jurisdiction and, therefore, no grievance can be raised by the petitioner in this regard.

At this stage, learned Senior counsel appearing on behalf of the petitioner submits that as the petitioner is on deputation with the Corporation, the Corporation has no jurisdiction to issue him a charge-sheet as only the parent department can do so hence, even on this account that the charge-sheet which has been issued to the petitioner by the corporation is without jurisdiction.

Learned counsel for the respondent-Corporation submits that the petitioner cannot be permitted to allege that the Corporation cannot issue charge-sheet upon him and only the Administrative department in the parent cadre can issue the said charge-sheet even while working on deputation with the Corporation and in case the petitioner alleges that only the Administrative department i.e. parent department can issue the charge-sheet upon him in case the same is recommended by the corporation, let the petitioner give an undertaking before this Court that he be sent back to his

parent department and liberty be extended to the Corporation to request the parent department of the petitioner to initiate appropriate proceedings against the petitioner with regard to the irregularities committed by him while being on deputation with the Corporation, he has instructions to state that charge-sheet in question be treated as withdrawn with liberty to the Corporation to recommend the parent department of the petitioner to initiate disciplinary proceedings qua irregularities committed by the petitioner.

Learned Senior counsel appearing on behalf of the petitioner submits that he has instructions from the petitioner that he is ready to go back to his parent department as and when directed and has no objection in case the parent department agrees with any of the proposal of the Corporation qua initiating any disciplinary proceedings against him for any alleged irregularity committed during the period when the petitioner was on deputation with the respondent-Corporation.

Keeping in view the settled principle of law that while an employee is on deputation the borrowing/subsidiary department cannot initiate disciplinary proceedings against the said employee as the said jurisdiction remains within the parent department only, learned counsel for the respondent-Corporation submits that the charge-sheet issued to the petitioner be treated as withdrawn with liberty to send the petitioner back to his parent department and to recommend proposing initiating disciplinary proceedings against the petitioner, keeping in view the irregularities which he has committed while on deputation with the respondent-Corporation.

Learned Senior counsel appearing on behalf of the petitioner submits that as the charge-sheet impugned has been withdrawn with liberty to send the petitioner to his parent department with further

liberty to recommend the initiation of the disciplinary proceedings to the appropriate authority in the parent department, the present petition has been rendered infructuous and is disposed of as such.

Ordered accordingly.

09.08.2023
ps-I

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No