

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101) CM No.12155 of 2023 in/and
CWP No.14586 of 2012 (O&M)
Date of Decision : 07.08.2023

Rajinder Parshad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sachin Bhardwaj, Advocate and
Mr. Rohit Mittal, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM No.12155 of 2023

The present application has been filed for fixing an actual date of hearing in the present writ petition on the ground that the same is of the year 2012 and 11 years have already passed and services of the petitioner have been terminated due to which, the petitioner is facing prejudice.

Notice of the application be issued to learned counsel for the respondents.

Mr. Pankaj Middha, Additional Advocate General, Haryana, who is present in the Court accepts notice and raises no objection in case the writ petition is heard and decided on any date as fixed by this Court.

CWP No.14586 of 2012

- JYOTI
2023.08.09 15:05
I attest to the accuracy and
integrity of this
order/judgmentt

5. Learned counsel for the petitioner argues that though an order has been passed terminating the services of the petitioner but the petitioner has not been given the enquiry report before passing the impugned order of termination of services, which has caused prejudice to the petitioner and the said action of the respondent is contrary to the settled principle of law. Hence, the impugned order is liable to be set aside.

6. The second argument being raised by the petitioner is that keeping in view the explanation given by the petitioner qua the allegations alleged in the chargesheet, the same was reasonable and should have been accepted by the respondent and hence, proving of the charges by the Enquiry Officer is bad.

7. The last argument raised is that the order passed by the Authorities terminating the services is totally non-speaking, hence cannot be sustained and is liable to be set aside.

8. Learned State counsel submits that the grounds on the basis of which the challenge has been raised to the impugned order are incorrect and against the facts. Learned State counsel submits that along with show cause notice on 06.06.2011, a copy of the enquiry report dated 12.09.2017 was also furnished to the petitioner and the said fact is clear from the dispatch register where, the same stands recorded. Further, learned counsel submits that in case the enquiry report was not received by the petitioner, the petitioner should have taken the said ground in the reply submitted to the said show cause notice but no such averments find mentioned in the reply that he has not been supplied the enquiry report alongwith notice.

9. Learned State counsel further submits that qua the argument that the allegations alleged against the petitioner were false, learned counsel

submits that the same were proved by the Enquiry Officer on the basis of the evidence which has come on record hence, the petitioner cannot state that the charges were wrongly proved.

10. Learned State counsel further argues that once the enquiry report has been accepted by the Punishing Authority and the same has been taken into consideration while passing the impugned order, the allegation that the order passed by the Authorities concerned terminating the services of the petitioner is cryptic, is liable to be rejected.

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

12. The allegations that the enquiry report was not given to the petitioner before the same was acted upon by the Punishing Authority cannot be accepted for the reason that the respondents in their reply have clearly stated that along with the show cause notice dated 06.06.2011 an enquiry report dated 12.09.2007 was also given to the petitioner which also find mentioned in the dispatch register. There is no replication filed by the petitioner to controvert the said document, which has been placed on record. Further, had the enquiry report not been given to the petitioner, he would have raised the said objection before the authorities in the reply filed but no such objection has been raised by the petitioner while submitting the reply to the show cause notice.

13. Learned counsel for the petitioner concedes the factum that in the reply filed to the show cause notice, no such objection was raised qua the non-supply of the enquiry report. Keeping in view the factum which has come on record, which facts have gone unrebutted at the hands of the petitioner, the argument that the petitioner was not given the enquiry report

before the same was acted upon by the Punishing Authority is incorrect and false and hence, cannot be accepted.

13. The second argument which has been raised by learned counsel for the petitioner is that in the facts and circumstances of the present case, the proving of the allegation by the Enquiry Officer is bad. It may be noticed that in the enquiry report given by the Enquiry Officer, charges have been proved relying upon the documents on record. The Enquiry Officer has considered all the objections raised by the petitioner qua the allegations alleged. Further, this Court is not to look into the allegations and the proving of the same as this Court has no jurisdiction to evaluate the evidence and record a finding other than the one recorded by the Enquiry Officer unless the case is of no evidence. Once, the Punishing Authority, satisfied itself qua the proving of the allegations by the Enquiry Officer, this Court has only to ensure that procedure envisaged under Rule to conduct the disciplinary proceedings has been adopted.

14. This Court under Article 226 is only to ensure that while holding the departmental proceedings, the due process envisaged under law was followed, hence the said arguments that the allegations were wrongly proved by the Enquiry Officer cannot be accepted.

15. The last argument which has been raised by learned counsel for the petitioner is that the order passed by the Punishing Authority is cryptic and hence is liable to be set aside. It is a settled principle of law where the allegation has been proved against a delinquent by the Enquiry Officer and the said enquiry report has been accepted by the Punishing Authority, the detailed order need not be passed. The reliance can be placed on the judgment of the Hon'ble the Supreme Court of India in Civil Appeal

No.4394 of 2010, titled as **Boloram Bordoloi Vs. Lakhimi Gaolia Bank and others** decided on 08.02.2021.

16. Keeping In view the above, the arguments that the impugned order terminating the services of the petitioner is cryptic, is also rejected.

17. No further argument has been raised.

18. Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

19. Dismissed.

August 07, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No