

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of Decision: 21.09.2023

1. LPA No. 751 of 2023

Parminster Singh GillAppellant
versus
State of Punjab and othersRespondents

2. LPA No. 868 of 2023

State of Punjab and othersAppellants
versus
Rakesh Kumar AroraRespondent

3. LPA No. 870 of 2023

State of Punjab and othersAppellants
versus
Baldev SinghRespondent

4. LPA No. 872 of 2023

State of Punjab and othersAppellants
versus
Rajinder ChopraRespondent

5. LPA No. 874 of 2023

State of Punjab and othersAppellants
versus
Parminder Singh GillRespondent

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. R.K.Kapoor, Addl. Advocate General, Punjab,
for the appellant-State of Punjab in
LPA Nos. 868, 870, 872 and 874-2023.

Mr. Randeep Singh Waraich, Advocate,
for the appellant in LPA No. 751-2023.

Mr. Sapan Dhir, Advocate and
Mr. Amit Sharma, Advocate, for the respondents in
LPA Nos. 868, 870 and 872 of 2023.

Mr. D.S.Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate,
for the respondent-writ petitioner in
LPA No. 874-2023.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

All these appeals have been filed by the appellants, original petitioner as well as the State of Punjab, against the impugned order dated 17.05.2023 passed by the learned Single Judge, whereby the writ petitions filed by the petitioners, who had challenged the orders of punishment, have been disposed of with directions.

2. The only issue raised in the present appeals is the correctness of the direction issued by the learned Single Judge in paragraph-24 of the impugned order wherein it has been directed that the petitioners through their counsel are directed to appear before the Minister-in-Charge on 24.05.2023 at 11.00 A.M. for hearing.

3. Learned Additional Advocate General appearing for the State of Punjab submits that there is no provision in the Punjab Civil Services (Punishment & Appeal) Rules, 1970, for giving a detailed hearing at this stage before the Minister-in-Charge. He, however, fairly concedes that the State is not aggrieved as far as the direction issued in para-25 of the impugned order passed by the learned Single Judge is concerned, whereby it has been directed that the Minister-in-Charge would take up the matter in terms thereof and take a call on the issues as stated therein within two weeks from today.

4. Learned senior counsel appearing for the original-writ petitioner, on the strength of a caveat, submits that the main issue involved in the petitions was regarding the fact that the authorities had passed the order of termination of the services of the writ-petitioners, without assigning any reasons, only on the basis of the noting and direction made by the Minister-in-Charge, who is not the competent authority under the Service

Rules. He submits that the learned Single Judge has now remitted the matter to the Minister-in-Charge to initially decide the issue of competence and desirability of passing the order by the Minister-in-Charge at the first instance, while assuming the role of disciplinary authority keeping in mind the objection of the writ petitioners and only thereafter proceed with the matter in accordance with law. He submits that in such circumstances as the learned Additional Advocate General, Punjab, has not raised any objection in this appeal against the direction contained in para-25 of the impugned order, the present appeals may be disposed of in terms of the direction contained in para-25 of the impugned order without adverting to any other issues on merits, to decide the issue of the competence of the Minister-in-Charge or the Disciplinary Authority, as the case may be, for taking a final decision in the disciplinary proceedings.

5. Learned Single Judge in the impugned order has passed the following directions in para Nos. 24, 25 and 26 which are as follow:-

“24. Hence, the impugned orders, being non-speaking apart from being without reasons, are set aside. While remitting the matter back to the Minister-in-Charge, the petitioners through their counsels are directed to appear before the Minister-in-Charge on 24.05.2023 at 11.00 a.m which shall be subject to change at the convenience of the Minister with prior intimation to the petitioners.

25. Keeping in view the aforesaid discussion, the result is inevitable. While setting aside the orders passed by the Minister-in-Charge as well as the Additional Chief Secretary, the matter is remitted back to the Minister-in-Charge to initially decide about her desirability of passing the order at the first instance while assuming the role of disciplinary authority keeping in view the objection of the petitioners and thereafter proceed with the matter in accordance with the law.

26. Since, there are serious imputations, hence, this Court is not passing an order of reinstatement of the petitioners except Mr. Rajinder Chopra, who is a retired employee. However, the competent authority is requested to finally pass an appropriate order within a period of two months, from today”.

6. Having heard learned counsel for the parties and in view of the undertaking and the statements made before this Court, we clarify that without complying with the directions contained in para-24, the respondents shall comply with the direction issued in para-25 of the impugned order and accordingly the Minister-in-Charge would take up the matter as directed and first take a call, as to whether the matter can be considered or decided by the Minister-in-Charge or whether it has to be decided by the Disciplinary Authority, keeping in mind the provisions of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 and Rule 18 of the Rules of Business of the Government of Punjab, 1992. In other words, whether the Minister-in-Charge could have taken up the matter at the stage of submitting the enquiry report and assuming the role of the disciplinary authority, pass orders of punishment or otherwise direct the disciplinary authority to simply pass orders of punishment without assigning any reasons thereby taking away the discretion vested in the disciplinary authority to either punish or exonerate and if punish, the minor or major punishment to be imposed and to assign reasons while doing so keeping in view the provisions of the Punjab Civil Services (Punishment & Appeal) Rules, 1970, which would materially be effected in case the Minister-in-Charge steps into the shoes of the Disciplinary Authority or steps in between and directs the authority to pass a particular order. It is further directed that after taking this initial decision within two weeks as undertaken before this Court, the authority shall

thereafter proceed with the matter in accordance with the procedure prescribed by law.

7. With these observations, all the appeals stand disposed of. Pending applications, if any, also stand disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

21.09.2023
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√