

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

CWP-13440-2023

DECIDED ON: 04.07.2023

SHIV KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Govind Tanwar, Advocate for
Mr. P.S. Sullar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

This is a civil writ petition under Article 226/227 of Constitution of India for issuance of a writ or direction in nature of certiorari for quashing the show cause notice dated 28.04.2023 (Annexure P-8) issued by respondent No.4 on the ground that the same was issued after 15 years from the date of accident i.e., 04.04.2008 and also ascertaining that major punishment also stands inflicted upon the petitioner in the year 2012.

It is the contention of learned counsel for the petitioner that once on the same set of facts and allegations, the punishment already stands awarded against the offence committed on 04.04.2008 by the competent authorities i.e., stoppage of their annual increment with future effect without following the provisions of HSEB employees (Punishment and Appeal Regulations, 1990 being arbitrary constitutional, which is also under challenge before this Court in the writ petition.

A perusal of the impugned show cause notice (Annexure P-8) crystallise that the petitioner has been afforded an opportunity to explain the

communication as to why the punishment, which has already been ordered, should not be implemented against him. The petitioner has been further advised to contact for any relevant official record to be examined in the office on any working day, apart from an opportunity for personal hearing, if asked for by the petitioner within the stipulated period.

From the perusal of writ petition, it is crystal clear that the present petition is premature since no action has been taken finally against the petitioner, the disciplinary proceedings are still pending and the explanation of the petitioner is under consideration. It is only in the event of the petitioner being punished that any grievance can arise for him to be agitated in the proper forum.

At this stage this Court is not inclined to go into the merits of the case, as the writ petition is premature. No punitive action has yet been taken so far. It is difficult to state, apart from speculation, what the outcome of the proceedings will be. In case the petitioner is punished, it is certainly open to him either to file an appeal as provided in the relevant rules or to take other action that he may be advised to resort to. It is not for this Court, at the moment, to consider whether a writ petition will lie or whether an appeal to the competent authority under the rules is the proper remedy, although these are issues which merit serious consideration.

This Court is of the considered view that the petitioner has invoked this jurisdiction in haste without awaiting the aforesaid remedy, wherein the final order of punishment has not yet been issued in pursuance to the earlier show cause notice, as is evident from the plain reading of impugned instant show cause notice dated 28.04.2023. It was open for the petitioner to submit reply within 30 days from the date of receipt of the communication, which was actually received by the petitioner admittedly on 28.04.2023, which came to expire on 28.05.2023 and to inspect record or to ask for personal hearing as was offered in the said show cause notice.

The instant writ petition seems to be a clever device to cover up the said lapse on the part of the petitioner, wherein 30 days has already been expired as the writ petition has been filed subsequent thereto i.e., on 08.06.2023.

In view of the above, petition stands dismissed.

04.07.2023

(SANDEEP MOUDGIL)

JUDGE

Meenu

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