

**105-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CWP-24899-2017 (O&M)

Jatinder Singh Chinna

....Petitioner

Versus

State of Punjab and others

..Respondents

2.CWP-17215-2018 (O&M)

Jatinder Singh Chinna

....Petitioner

Versus

State of Punjab and others

..Respondents

Date of decision: 02.03.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Abhilaksh Grover, Advocate for the petitioner

Mr. R.K. Kapoor, Addl. AG, Punjab

Mr. Pradeep Singh, Advocate for
Mr. Mohd. Yousaf, Advocate for respondent no.5
in CWP-17215-2018

ANIL KSHETARPAL, J (Oral)

1. By this order, two Civil Writ Petitions i.e CWP-24899-2017 and CWP-17215-2018 shall stand disposed of.

2. These two writ petitions have been filed by a common petitioner. The challenge is to the correctness of the order passed on 11.05.2017 which has been modified in the appeal on 06.09.2017. The punishing authority ordered the stoppage of two increments of the petitioner with cumulative effect, whereas, the appellate authority has ordered the stoppage of two increments without cumulative effect. In a

departmental inquiry, held by a retired Additional District Judge, it was reported that the charges against the petitioner are not proved. However, the punishing authority has disagreed with the report and passed the order as noted above. On a reading of the order passed on 11.05.2017, it is evident that the punishing authority has observed that the delinquent official has failed to prove his innocence and hence, the order of punishment is being passed. The appellate authority has not even adverted to the aforesaid aspect of the case. Once a statement of imputation is served upon the employee, it is the duty of the departmental officials to prove the charges against him. There is no concept of reverse onus on the employee to prove his innocence. Thus, the punishing authority has fundamentally erred in putting reverse onus on the petitioner.

3. The learned counsel representing the State has failed to draw the attention of the Court to any substantive finding recorded by the punishing authority while disagreeing with the report of the inquiry officer. Although, the punishing authority has the enabling power to disagree with the inquiry report, however, it is expected that such disagreement is supported by cogent and valid reasons. In the absence thereof, the impugned orders cannot sustain. Consequently, the orders dated 11.05.2017 and 06.09.2017 are set aside.

4. The matter is remitted back to the punishing authority with a direction to pass a fresh speaking order, after granting an opportunity of hearing to the petitioner, within a period of two months, from today.

5. In CWP-17215-2018, the petitioner assails the correctness of the order denying him promotion at the appropriate time. The aforesaid order has been passed on the basis of the order dated 11.05.2017, which has already been set aside. Hence, the competent authority shall re-decide the petitioner's claim for promotion after the punishing authority passes a fresh order.

6. With these observations, the two writ petitions are allowed.

7. All the pending miscellaneous applications, if any, are also disposed of.

02.03.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**