

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

(221)

CWP-25886-2017

Date of decision:- 14.02.2023

Ram Niwas

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.K.Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 09/10.10.2017, Annexure P-8, by which the petitioner has been dismissed from service. A further prayer has been made for reinstating the petitioner with all consequential benefits.

Shorn of details, suffice it to notice is that the petitioner was working as Assistant Sugar Cane Development Officer when a charge-sheet dated 16.08.2011, Annexure P-1, was served on the allegation that the petitioner has received bribe. Petitioner has submitted his reply and an enquiry officer was appointed, who submitted report dated 01.07.2014. Copy of the report was supplied to the petitioner and he gave a representation. Petitioner was called for a personal hearing and by impugned order, he was dismissed from service.

Counsel for the petitioner has invited the attention of the Court to order dated 14.11.2017 passed by this Court, which is reproduced as under:-

“Counsel inter alia contends, by referring to para no. 9(i), that personal hearing was given by Sh. V.S. Kundu, IAS, the then Additional Chief Secretary on 06.01.2016 and the impugned order dismissing the petitioner from service on 09.10.2017 has been passed by Sh. Abhilaksh Likhi.

Notice of motion.

Mr. Harish Rathee, Sr. DAG, Haryana accepts notice on behalf of the respondents and prays for time. Copies of the writ petition have been supplied to him.

Adjourned to 28.11.2017.

Let necessary record be produced to confirm the above factum.”

Reference has also been made to order dated 28.11.2017 passed by this Court, which is as under:-

“The original record has been perused in pursuance of the last order. The arguments which have been raised by the senior counsel prima facie seem to be correct since personal hearing which was afforded to the petitioner on 06.01.2016 as noticed in paragraph 4 of the impugned order was by Sh. V.S. Kundu, Additional Chief Secretary, Agriculture. Eventually as noticed the order has been passed by another officer and therefore the grouse of the petitioner that the opinion of the earlier officer may have been kept in mind but the personal hearing is to be given before passing of order, by the same officer.

Let the State file a detailed reply.

Adjourned to 18.01.2018.”

Writ petition has been contested by the respondents by filing a written statement.

Heard counsel for the parties.

The factual assertion of the petitioner that the hearing was not given by the officer, who passed the impugned order has not been disputed. Principles of natural justice mandate that a person who hears, must also decide, otherwise personal hearing becomes an empty formality. Hearing of a delinquent employee before passing any order carrying adverse consequences, is a must. It is one of the essential features of natural justice. As the successor of the officer, who has accorded a hearing, had no occasion to hear the petitioner, order passed by him would stand vitiated.

In view of the above, impugned order dated 09/10.10.2017, Annexure P-8, is quashed. Matter is remitted back to the disciplinary authority to pass a fresh order after hearing and complying with the procedure prescribed under the Haryana Civil Services (Punishment and Appeal) Rules, 2016. Needful be done within a period of four months from the date of communication of this order. However, order of reinstatement of the petitioner shall be kept in abeyance till such fresh consideration by the authority and would depend on the outcome of the same.

Writ petition is disposed of.

14.02.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No