

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

(110)

CWP-22900-2023

Date of decision: - 10.10.2023

Mohd. Hussain**....Petitioner****Versus****State of Haryana and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Manish Soni, Advocate, for the petitioner.

Ms. Rajni Gupta, Additional Advocate General, Haryana
for the respondents.

VIKAS BAHL, J. (ORAL)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ or direction in the nature of certiorari for the quashing of impugned order dated 19.01.2016 (Annexure P-2) passed by respondent No.3/IGP, South Range, Rewari dismissing the representation filed by the petitioner, and the adverse remarks recorded in ACRs for the period from 24.07.2013 to 31.03.2014 (Annexure P-1) dated 18.07.2014 & for the period from 01.04.2015 to 08.12.2015 (Annexure P-5) dated 13.07.2016 alongwith all consequential proceedings arising out therefrom as well as the quashing of the impugned show cause notice dated 26.09.2023 (Annexure P-8) passed by IGP, South Range, Rewari regarding compulsory retirement of the petitioner.

2. Learned State counsel has submitted that in the present case,

liberty was given to the petitioner to file a reply/representation to the said show cause notice and it has been specifically observed in the show cause notice that the reply/representation would be considered by the competent authority before taking any proposed action. It is submitted that the present writ petition has been filed without filing any reply and without any order having been passed after the said show cause notice, thus, the same is premature. It is stated that in case the petitioner files a reply on or before 24.10.2023, then, the same would be considered by the competent authority before taking any proposed action.

3. Learned counsel for the petitioner has submitted that in view of the said statement of learned State counsel, the petitioner be permitted to withdraw the present writ petition with liberty to file a reply on or before 24.10.2023, taking all pleas available to him in law to the show cause notice dated 26.09.2023. It is prayed that in case the order is passed against the petitioner, then, the petitioner be granted liberty to challenge the order dated 19.01.2016 (Annexure P-2) as well as the adverse remarks recorded in the ACRs (Annexures P-1 and P-5).

4. Learned State counsel, at this stage, has pointed out that the said order/ACRs have been challenged after much delay and the present order should not be construed as condoning the delay.

5. Keeping in view the above-said facts and circumstances, the petitioner is permitted to withdraw the present writ petition with the following observations: -

- (i) Petitioner is permitted to file a reply to the show cause notice dated 26.09.2023 till 24.10.2023.

- (ii) In case any such reply is filed by the petitioner on or before the said date, the competent authority would consider the same before taking proposed action.
- (iii) In case any adverse order is passed against the petitioner, it would be open to the petitioner to challenge the order dated 19.01.2016 (Annexure P-2) as well as the adverse remarks in the ACRs (Annexures P-1 and P-5) and the said challenge would be considered independently keeping in view all aspects, including the aspect of delay.
6. Present writ petition is dismissed as withdrawn with the above-said observations.

October 10, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No