



CWP-18068-1999 (O&M)

-1-

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

203

CWP-18068-1999 (O&M)

Date of Decision :02.12.2024

Milap Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance being raised by the petitioner is that the petitioner has been imposed a punishment vide order dated 01.08.1995 (Annexure P/8) withholding the four increments with cumulative effect along with recovery of shortage/less excess for the crop year 1983-84 to the tune of 25% of the total loss, which is totally arbitrary and illegal.

Learned counsel for the petitioner argues that the imposition of punishment upon the petitioner though, upheld by the authorities concerned in the appeal and revision is bad as in the departmental enquiry, the allegations alleged in the charge sheet were not proved and the petitioner was exonerated but still order imposing the punishment was passed, which is arbitrary and illegal as there was no material to hold the petitioner guilty



CWP-18068-1999 (O&M)

-2-

before the respondents so as to impose the punishment and hence, the impugned order of punishment dated 01.08.1995 (Annexure P/8) may kindly be set aside along with other consequential orders passed by the Appellate as well as Revisional authority.

Learned counsel for the respondents submits that though, it is a matter of fact that in the departmental enquiry, the Enquiry Officer exonerated the petitioner but the punishing authority dissented with the enquiry report and on the basis of the said dissent, punishment order dated 01.08.1995 (Annexure P/8) was passed, which is perfectly valid and legal and as the said order has already been upheld by the Appellate as well as Revisional authority hence, no grievance can be raised by the petitioner.

Learned counsel for the petitioner has submitted that in case, the punishing authority dissented with the enquiry officer, no such dissent note was given to the petitioner and the respondents be directed to bring on record the said dissenting note, on the basis of which the impugned order of punishment was passed so that the payer of the petitioner qua the imposition of punishment could be adjudicated.

Learned State counsel had taken time to bring on record the dissenting note, on the basis of which order of punishment was passed but keeping in view the instructions he has received from Dr. Anjuman Bhaskar, Additional Director, Food, Civil Supplies and Consumers Affairs, Punjab, he submits that no such dissenting note is traceable on record and further that whether the said dissenting note was supplied to the petitioner or not before imposing the punishment, cannot be confirmed.

I have heard learned counsel for the parties and have gone



CWP-18068-1999 (O&M)

-3-

through the record with their able assistance.

It may be noticed that a charge sheet was issued to the petitioner on 25.10.1989 under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (in short '1970 Rules'). As per the 1970 Rules, the punishing authority is to take action keeping in view the enquiry report submitted by the Enquiry Officer. As per the Rules, it is a conceded position that in case allegations are proved, the enquiry report is to be given to the delinquent officer for his/her comments and thereafter, keeping in view the objection taken by the delinquent officer concerned against the enquiry report, appropriate order is to be passed by the punishing authority and in case, the allegations have not been proved by the Enquiry Officer, the punishing authority has to arrive at a conclusion either to accept the enquiry report and exonerate the officer concerned or to disagree with the same keeping in view the evidence which has come on record during the departmental proceedings so as to record a dissent note and to convey the said dissenting note to the officer concerned for his information and comments and thereafter, pass any such order which is required in the facts and circumstances of the case.

In the present case, it is a conceded position that the petitioner was exonerated of the allegations by the Enquiry Officer and though the respondents are stating that the said enquiry report was dissented by the Punishing Authority but no such dissenting note has been brought on record to show the said dissent was ever passed or whether the said dissent note was ever even conveyed to the petitioner before passing impugned order of punishment dated 01.08.1995 (Annexure P/8).

Keeping in view the said fact, once, the dissent note has not



CWP-18068-1999 (O&M)

-4-

been brought on record by the respondents and it has not been shown whether even if, there was a dissent, the same was ever conveyed to the petitioner for his comments before imposing the punishment, the order imposing the punishment is arbitrary and illegal and is not in consonance with the 1970 Rules, according to which, the departmental proceedings are to be held against an employee.

Further, the enquiry report was in the favour of the petitioner and there is no dissent by the punishing authority which has been brought on record to show on the basis of which evidence, the said dissent was passed by the authority concerned. Further, the said dissent, if any, has never been conveyed to the petitioner and hence, the petitioner has been caused prejudice so as to defend himself keeping in view the facts and circumstances brought before this Court. The punishment imposed upon the petitioner is contrary to the 1970 Rules as well as the rules of natural justice hence, the impugned order of punishment cannot be sustained in the eyes of law.

Though, in the present case, the order of punishment is being set aside on technicalities hence, the department is to be given fresh chance to complete the departmental proceedings in accordance with 1970 Rules but in the present case, the petitioner has already retired from service and the dissent note is not being placed by the respondents themselves hence, once, as per the enquiry proceedings, the petitioner has been exonerated, in the facts and circumstances of the present case, no further opportunity is liable to be given to the department to prove the allegations alleged against the petitioner so as to impose any punishment.



CWP-18068-1999 (O&M)

-5-

Keeping in view the above, impugned order dated 01.08.1995 (Annexure P/8) imposing the punishment upon the petitioner as well as order passed in appeal and revision are set aside.

Any action taken against the petitioner on the basis of the impugned order of punishment and the petitioner has been caused financial distress on the basis of the said action i.e. salary has been reduced or he was not given the benefit of increments, said benefits will be allowed in favour of the petitioner and the respondents will recalculate the salary admissible to the petitioner after allowing the benefit of four increments, which were stopped as per the order of punishment. The said order of punishment is to be redone by the respondents and refix the salary of the petitioner and grant him the consequential benefits of the arrears. Further, in case any other recovery has also been done on the basis of the impugned order, the said recovery be also refunded back to the petitioner.

No other order passed during the pendency of this petition will be relied upon to deny the benefits to the petitioner as the basic order of punishment has already been set aside by this Court.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petition is allowed in above terms.

Civil miscellaneous application pending, if any is also disposed of.

November 12, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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