



CWP-12627-2021(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12627-2021(O&M)

Date of Decision :22.05.2024

Jaswinder Singh

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Satbir Singh Gill, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance being raised by the petitioner is that two similarly situated employees alleged to have committed the same irregularities, have been punished differently.

Learned counsel for the petitioners submits that the petitioner was proceeded against by issuing a charge sheet dated 24.07.2013 (Annexure P/1) according to which, the petitioner did not fill the "Way bill" for which, the petitioner was imposed a punishment of stoppage of one increment with cumulative effect and in the appeal filed by the petitioner, the said punishment has been upheld by the appellate authority vide order dated 07.04.2016, copy of which has been attached as Annexure P/7.

Learned counsel for the petitioner submits that on the same



allegations alleged against one Naresh Kumar, who was also inflicted punishment of stoppage of one increment with cumulative effect by the punishing authority but the same appellate authority by taking a sympathetic view, modified the said punishment of stoppage of one increment with cumulative effect to that of stoppage of one increment without cumulative effect, therefore, the petitioner has been discriminated.

Learned counsel for the respondents on the other hand submits that as the action has been taken after the petitioner has been found guilty of the allegations hence, no grievance can be raised by the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the order passed by the Additional Transport Commissioner-II, Haryana dated 07.04.2016 (Annexure P/7), in the case of the petitioner as well as in the case of one Naresh Kumar, the allegations alleged against both the employees were same and the punishment imposed upon both employees by the punishing authority was also the same but the appellate authority while considering the appeal filed by the petitioner, dismissed the said appeal, whereas, in the case of Naresh Kumar, the same appellate authority modified the punishment of stoppage of one increment with cumulative effect to that of stoppage of one increment without cumulative effect. Once, a discretion is being exercised by the same appellate authority qua the same allegations, the parity has to be maintained qua all. Discretion cannot be exercised by pick and choose manner. No reason has come forward as to why a sympathetic view was taken towards



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Naresh Kumar and appeal filed by the petitioner was dismissed without showing any compassion.

In the absence of any valid reason, two different orders, against the two different employees but on the same allegations and by the same appellate authority have been passed, which cannot be upheld.

Keeping in view the facts and circumstances recorded hereinbefore, impugned order dated 07.04.2016 (Annexure P/7) is set aside and impugned order of punishment is modified to the extent that one increment of the petitioner without cumulative effect be stopped keeping in view the benefit extended to the similarly situated employee Naresh Kumar.

Present petition stands allowed in above terms.

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

May 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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