

**CWP-15789-2021****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(203)****CWP-15789-2021****Date of Decision : May 17, 2024****Pawan Kumar****.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Gursher Singh Bhandal, Advocate and
Mr. Rahul Kumar, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that a show cause notice issued to the petitioner on 27.11.2019 and consequent order of punishment passed on 10.11.2020, copies of which have been attached with this petition as Annexures P-4 and P-5 respectively, have been passed in contravention of the settled principle of law and violating the rules of natural justice and hence, are liable to be set aside.

2. Learned counsel for the petitioner argues that the petitioner was working as a Driver and he was issued a charge-sheet on the ground that while on duty on 23.11.2018, the petitioner abandoned the bus due to which, harassment was caused to the passengers and the financial loss was

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caused to the Department. In reply to the said charge-sheet, the petitioner had submitted that his mother was not well and hence, he had informed the authorities and had gone to take care of his ailing mother.

3. Keeping in view the evidence which came on record in the departmental proceedings, the enquiry officer held that the allegations alleged against the petitioner are not proved. The said report was presented before the punishing authority and the punishing authority disagreed with the enquiry report and directed that one increment of the petitioner be stopped after which, a show cause notice with disagreement note was served upon the petitioner and the punishment was imposed upon him, which show cause notice as well as the punishment order as Annexures P-4 and P-5 are under challenge in the present petition.

4. Learned State counsel, on the basis of the reply filed, submits that though it is a matter of fact that the allegations alleged against the petitioner were not proved in the enquiry proceedings but as the punishing authority disagreed with the report of enquiry officer and directed that one of his increment be stopped after which show cause notice was issued and his one increment was stopped without cumulative effect, which punishment is perfectly valid and legal.

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

6. As per conceded fact, in the departmental proceedings held, the enquiry officer exonerated the petitioner of the allegations alleged against him but the punishing authority disagreed with the finding of the enquiry officer and directed that one increment of the petitioner be stopped and it is

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only thereafter, the show cause notice was issued to the petitioner and the one increment was stopped.

7. From the facts, it is clear that while disagreeing with the enquiry report, before even submitting the disagreement report to the petitioner, the punishing authority had already decided the punishment to be imposed upon the petitioner which shows that the show cause notice was issued after deciding the punishment also hence, it cannot be said that the reply given to the show cause notice was considered with open mind as the respondents had already decided to impose the punishment upon the petitioner without even putting to him the enquiry report or the disagreement which is total violation of principles of natural justice.

8. Keeping in view the above, the impugned orders dated 27.11.2019 (Annexure P-4) and 10.11.2020 (Annexure P-5) cannot be allowed to be sustained and the order of punishment is accordingly set aside.

9. Learned State counsel submits that as the punishment is being set aside on technical ground, liberty be given to the Department in case they intend to proceed again against the petitioner by following the due process of law.

10. Ordered accordingly.

11. The present writ petition is disposed of in above terms.

May 17, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No