

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

2024:PHHC:056191

(104)

CM-6002-CWP-2024 in/and  
CWP-20868-2017  
Date of Decision : April 25, 2024

Dr. Raj Kumar Verma

.. Petitioner

Versus

State of Haryana and others

.. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Shivam Malik, Advocate, for the applicant-petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

**CM-6002-CWP-2024**

Present application has been filed for recalling the order dated 08.04.2024, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 08.04.2024 is recalled and the writ petition is restored to its original number and status.

**CWP-20868-2017**

1. In the present writ petition, the challenge is to the enquiry report dated 13.05.2013 (Annexure P-7) as well as to the order dated 28.05.2016 (Annexure -12) by which, the punishment of 10% cut in pension for a period of one year has been imposed upon the petitioner and to the communication dated 25.04.2017 (Annexure P-16) by which, the appeal/memorial filed by the petitioner has been rejected by the Governor of the State of Haryana. Further prayer of the petitioner is for grant of 3<sup>rd</sup> ACP w.e.f. 27.08.2012.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The petitioner, who was working on the post of Veterinary Surgeon, was charge-sheeted in the year 2011 alleging certain allegations upon him. As per the charge-sheet dated 01.07.2011, the petitioner, who was heading the dispensary concerned, had failed to perform his duties in accordance with law, due to which, certain loss has been caused to the respondent-Department. After conducting the disciplinary proceedings against the petitioner, as certain charges were proved in the disciplinary proceedings, a show cause notice was given to the petitioner on 11.07.2014, proposing a punishment of 10% cut in pension for a period of five years. The petitioner filed reply to the said show cause notice and ultimately, on 28.05.2016 (Annexure P-12), an order has been passed imposing 10% cut in pension for a period of one year. Against the said order, the petitioner filed an appeal, which has also been rejected. All the orders i.e. imposition of punishment as well as rejection of his memorial have been impugned in the present writ petition.

4. Learned counsel for the petitioner argues that the 10% cut

which has been imposed upon the petitioner in the pension for a period of one year is a punishment, which is not commensurate to the charges alleged and proved hence, the said punishment is liable to be set aside.

5. Learned counsel for the petitioner submits that even otherwise, the petitioner was entitled for the grant of ACP w.e.f. 27.08.2012, which has not been granted and as there was no impediment in the release of the said benefit, the respondents are liable to be directed to grant the said benefit and re-calculate the pensionary benefits admissible to the petitioner as the petitioner has retired from service on attaining the age of superannuation on 31.10.2012.

6. Learned counsel for the respondents submits that in the present petition, the challenge is to the punishment imposed upon the petitioner vide order dated 28.05.2016 (Annexure P-12) on the ground that the said order is disproportionate to the charges alleged upon him and in the present case, the charges have been proved against the petitioner and the Government considering all the facts, has passed an order of punishment and this Court will not interfere as the imposition of punishment is within the domain of the punishing authority.

7. With regard to the non-grant of 3<sup>rd</sup> ACP, learned counsel for the respondents submits that the benefit of ACP is to be granted in case an employee is fit for promotion but could not be granted if an employee is not fit for promotion and in the present case, from the date when the petitioner is claiming the benefit of 3<sup>rd</sup> ACP, he was already a charge-sheeted employee in which proceedings, he has already been held guilty hence, no benefit of 3<sup>rd</sup> ACP can be given to the petitioner in the facts and circumstances of the present case.

8. I have heard learned counsel for the parties and have gone

through the record with their able assistance.

9. The jurisdiction to interfere with the disciplinary proceedings by the Court is limited. The Court is only to ascertain whether the procedure envisaged for conducting the disciplinary proceedings has been followed or not or whether any prejudice has been caused to the petitioner while conducting the disciplinary proceedings. Not even a single argument has been raised qua the conduct of the disciplinary proceedings and only argument raised is that the punishment imposed upon the petitioner is not proportionate to the charges alleged and proved. Hence, once there is no argument raised qua the conduct of the disciplinary proceedings, this Court will not like to interfere.

10. Further, with regard to the argument raised by learned counsel for the petitioner is that the punishment imposed upon the petitioner is disproportionate, it may be noticed that as per the settled principle of law, the Court can only interfere in case the punishment imposed is shockingly disproportionate to the charges alleged and proved. In the present case, the allegation of the petitioner was that he was not performing the duties while working on the post of Veterinary Surgeon and rather was only giving the medicine to be administered to the persons to be administered on their own to the animals. The said allegations have already been proved against the petitioner.

11. Further, there is a due application of mind while imposing the punishment upon the petitioner as in the show cause notice, the proposed punishment of stoppage of 10% cut in pension for a period of five years, which was reduced to one year hence, once there is due application of mind, while imposing the punishment, this Court will not interfere in the same.

Even otherwise, the punishment cannot be said to be shockingly

disproportionate to the allegations alleged and proved.

12. With regard to the grant of benefit of 3<sup>rd</sup> ACP, it may be noticed that the petitioner was facing a charge-sheet at the time when the petitioner completed the requisite period for the grant of the said benefit. Once the petitioner was charge-sheeted, he was not entitled for promotion and before the culmination of the disciplinary proceedings he retired on 31.10.2012 and thereafter, the allegations alleged upon the petitioner in the charge-sheet were proved and he was punished hence, in these circumstances, it cannot be said that the petitioner was fit for promotion on the date on which the petitioner is asking for the grant of benefit of 3<sup>rd</sup> ACP.

13. At this stage, learned counsel for the petitioner has raised an argument that once there was no loss caused by him, the cut in pension could not have been imposed upon the petitioner and the reliance is being placed upon the judgment of this Court in ***CWP No.3571 of 1981 titled as D.N. Gulati vs. The State of Haryana and others, decided on 07.12.1983.***

14. It may be noticed that the said question of law has also been considered by the Coordinate Bench of this Court in ***CWP No.14052 of 2013 titled as R.C. Pahwa vs. State of Haryana and others, decided on 11.03.2014*** where, it has been held that even if there is no pecuniary loss caused to the State exchequer but the charges have been proved, keeping in view Rule 2.2 (b) of the Punjab Civil Services Rules as applicable to Haryana, the cut in pension can be imposed. Once there is a power to impose cut under the Rules governing the service on proving of the charges, the order passed by the respondents is perfectly within legal frame work of the rules governing the aspect.

15. Learned counsel for the petitioner further argues that one other employee namely Ramesh Chander was also charge-sheeted and the

punishment imposed upon him is different than the one imposed upon the petitioner.

16. Learned counsel for the petitioner concedes that reply filed by the said employee was accepted and he was only given warning to be remain careful in future.

17. Even otherwise, the status of an employee and responsibility of an employee qua certain allegations alleged is to be seen. Merely that two employees have been charge-sheeted for the same incident, they are not liable to be imposed with same punishment without going into the actual facts of the case. An employee might be having different responsibilities qua the allegations alleged and the punishment is to be imposed keeping in view the responsibility of an officer and the charges alleged against a particular person hence, once the State Government in its wisdom decided to accept the reply of the other employee with regard to the allegations alleged, the petitioner cannot claim that he should have also been exonerated.

18. No other argument is raised.

19. Keeping in view the above, no ground is made out for any interference by this Court in the present writ petition.

20. Dismissed.

**April 25, 2024**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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