

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

.....Petitioner

.....Respondent(s)

CWP No.20918 of 2017

The prayer of the petitioner in the present petition is that vide order dated 10.05.2017, copy of which has been appended as Annexure P-6, the revision petition which was filed by the petitioner before the Financial Commissioner and Principal Secretary, Government of Punjab, Department of Planning, the same has been rejected by an authority Economic Advisor, Government of Punjab (respondent No.2) not competent to do so.

Learned counsel appearing on behalf of the petitioner submits that keeping in view of Rule 21 of the Punjab Civil Services (Punishment and Appeal) Rules 1970, though is cloth with the “review” but, the same actually deals with the appeal as, the order under Rule 21 of the 1970 Rules is to be passed a higher authority than the one who has passed the order, review of which has been sought under Rule 21 of the 1970 Rules. Hence, the petitioner against the order of the Advisor to the Government of Punjab dated 16.05.2012 (Annexure P-2) had filed an appeal before the Principal Secretary, which was rejected on 13.09.2013 (Annexure P-4) against which, the revision was preferred before the Financial Commissioner, Government of Punjab, Department of Planning but, on the said revision petition, the decision has been taken by the Economic Advisor (respondent No.2), i.e the authority which had passed the order of punishment, which is impermissible as, on the revision petition addressed to the Financial Commissioner, Government of Punjab, Department of Planning, only the said authority could have taken the decision and not any subordinate authority.

Upon notice of motion, the respondents have filed the reply and have stated that once, the request was addressed as “Review”, the same was

presented before the authority which has passed the order of punishment i.e the Financial Advisor hence, the impugned order was passed by the said authority

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

As mentioned earlier though, Rule 21 of 1970 Rules is described as review provision but, the same actually is a provision relating to the appeals to be filed against the order qua which an employee is prejudice. The wording of the rule itself makes it clear that the higher authorities are required to review the order passed by the lower authority in case, required to do so either unilaterally or any appeal/revision filed by the employee concerned against the order causing prejudice to him/her.

In the present petition, it is not in dispute that the revision petition was filed against the order of punishment dated 16.05.2012 (Annexure P-2) as well as dismissal of the appeal dated 13.09.2013 (Annexure P-4) before the Financial Commissioner, Government of Punjab, Department of Planning but the same has been rejected by the authority which has passed the impugned order of punishment. The respondents have totally misconstrued the revision petition filed by the petitioner to be a review to be presented before the authority which has passed the order of punishment. Whereas, the same was in the nature of revision before the Financial Commissioner, Government of Punjab, Department of Planning against the order of punishment and rejection of his appeal dated 16.05.2012 (Annexure P-2) and 13.09.2013 (Annexure P-4) respectively.

Hence, the order dated 10.05.2017, copy of which has been appended as Annexure P-6, is set aside. The Financial Commissioner, Government of Punjab, Department of Planning is directed to pass an appropriate order on the revision petition filed by the petitioner against the order of punishment dated 16.05.2012 (Annexure P-2) as well as rejection of the appeal dated 13.09.2013 (Annexure P-4).

Let the fresh order be passed by the authority concerned within a period of 8 months from the receipt of copy of this order.

Accordingly, the present petition is allowed.

Pending application, if any, also stands disposed of.

06-09-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking : YES/NO
 Whether reportable: YES/NO