

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP-21918-2018 (O&M)
Date of Decision : March 19, 2024

Mahinder Pal

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.C. Yadav, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana and
Ms. Vibha Tewari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-3553-CWP-2019

As prayed for, the application is allowed.

Replication to the reply filed on behalf of respondent No.4 is
taken on record.

CWP-21918-2018

1. In the present writ petition, the challenge is to the order dated 23.08.2018 (Annexure P-4) by which, the petitioner was suspended from service.
2. While issuing notice of motion, the order of suspension was stayed resulting that the petitioner is continuing in service.
3. On being asked as to whether, the petitioner has been charge-sheeted, learned counsel for the petitioner submits that as the order of

suspension was stayed, no charge-sheet has been issued to the petitioner.

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

5. As per the rules governing the service, the jurisdiction to suspend an employee prior to the issuance of the charge-sheet exist with the employer. The Department is to serve a charge-sheet within a period of 90 days of order of suspension otherwise, the order of suspension is rendered illegal. In the present case, the impugned order dated 23.08.2018 (Annexure P-4) was passed in the year 2018 and even after the expiry of approximately more than five and half years, no charge-sheet has been served upon the petitioner. That being so, the order of suspension lost its significance keeping in view the rules governing the service as, no employee can be kept under suspension for a period of more than 90 days without there being any initiation of the disciplinary proceedings.

6. In the present case, the order of suspension dated 23.08.2018 (Annexure P-4) was stayed but there was no restraint to the Department not to initiate the disciplinary proceedings. In the absence of the initiation of any disciplinary proceedings, the impugned order dated 23.08.2018 (Annexure P-4) has already lost its validity hence, cannot sustain and is accordingly set aside.

7. It is made clear that in case the Department is of the view that the allegations alleged against the petitioner needs to be enquired into by way of disciplinary proceedings, if permissible under law, they can exercise jurisdiction in accordance with law.

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

9. Any civil miscellaneous application pending if any, also stands disposed of.

March 19, 2024

(HARSIMRAN SINGH SETHI)

harsha

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No