



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

202

COCP-359-2012 (O&M)

Date of decision : 03.12.2025

Captain Sudip Biswas

..... Petitioner

versus

Shashi Kant Sharma and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sumit Jain, Advocate
for the petitioner.

Ms. Saigeeta Srivastava, Advocate
for the respondents-UOI.

PANKAJ JAIN, J. (Oral)

1. The present contempt petition relates to order dated 06.10.2020 passed in Intra Court Appeal by Division Bench of this Court in LPA No.439 of 2023. The operative part of the order reads as under:-

“The net result of the above discussion is that in the absence of any reasons to justify the dispensation of the Court Martial contemplated by the first part of Rule 14 (2), it has to be held that resort to the later part of Rule 14 (2) in the case of the appellant was not justified. As we have already held that the reply dated 5th October, 1990, submitted by the appellant-writ petitioner did contain his basic defence the stand taken by the respondents that no reply was submitted by the petitioner to the notice dated 10th September, 1990, issued by the Chief of the Army Staff, is also not correct.



The next and the crucial question that has to be decided is to the relief to which the appellant-writ petitioner should be held entitled to on the findings that we have recorded above.

The ground on which we have held the dispensation of the Court Martial to be not justified would require us to leave it open to the respondents to invoke the first part of Rule 14 (2) after complying with the inbuilt requirements that would be legally mandatory. Our finding that the respondents could not have proceeded with the civil/departmental action by holding that the petitioner had not submitted any reply would be contingent on what would be the outcome of the de nove process that will have now to be initiated under the first part of Rule 14(2). It is, therefore, premature, at this stage, to hold the appellant-writ petitioner to be free from all liabilities. In a situation where the liability of the appellant, if any, is yet to be finally decided, we are of the view that the relief of reinstatement cannot be granted. We, therefore, decline the same and close this appeal by leaving it open to the respondents to proceed in the matter in accordance with the present directions and as they may be advised. If, however, the respondents do not consider it expedient to reopen the matter within two months of the date of receipt of a copy of this order, they will be obliged to order for the reinstatement of the petitioner on such post for which the appellant-writ petitioner may be found fit with consequential benefits subject to condition that the appellant is medically fit for service in the Army.

The writ-appeal is consequently allowed to the extent indicated above. The impugned order dated



August 05, 2003, passed by the learned Single Judge is set-aside. We also make it clear that in the event the respondents decide to proceed against the petitioner afresh, in view of the long efflux of time, the respondents should ensure the conclusion of any such proceeding within six months from the date of initiation thereof.”

2. In deference of the order passed by LPA Bench, notice dated 06.05.2011 was issued to the petitioner followed by a corrigendum. The petitioner submitted his reply thereto. Thereafter order dated 14.06.2012 has been passed dispensing with the Court Martial proceedings against the petitioner.

3. It is admitted position by both the counsels that the said order is subject matter of challenge before Delhi High Court.

4. In view thereof, this Court is of the considered opinion that no further order is required to be passed in the present contempt petition.

5. Disposed off, accordingly.

6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

03.12.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No