

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

224

CWP-35171-2019
Date of Decision: 27.01.2025

Surender Kumar

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. V.D. Sharma, Advocate,
for the petitioner.

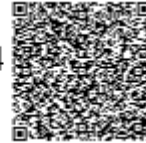
Mr. Saurabh Mohunta, DAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition filed under Articles 226 and 227 of the Constitution of India is seeking setting aside of impugned charge sheet dated 25.01.2017 (Annexure P-5); inquiry report dated 20.03.2018 (Annexure P-9) and order dated 15.04.2019 (Annexure P-12) vide which penalty of stoppage of one increment with cumulative effect has been imposed upon him.

2. On 07.08.2024, the following order was passed:-

“Matter has been argued and during the course of arguments it has been so stated by learned counsel for the petitioner that the petitioner was subjected to his regular departmental enquiry and he was exonerated by enquiry officer vide Annexure P-7 and thereafter another enquiry was conducted by another officer without any authority of law and without any order passed in which the second enquiry officer has held that the charges have been proved



against the petitioner and on the basis of the aforesaid second report, the punishment order has been passed. He further submitted that the aforesaid system is unknown to the service jurisprudence because although there is a power with the punishing authority to direct the de novo enquiry or to again conduct the enquiry but it has to be done in exercise of powers and in the absence of any such order by any authority, the second enquiry was not permissible and therefore the punishment order gets vitiated.

Learned State counsel seeks a short accommodation to assist this Court on the issue and to seek instructions in this regard.

Adjourned to 24.10.2024.”

3. Mr. Mohunta, on being asked to point out relevant provision permitting initiation of second inquiry, expressed his inability.
4. In the absence of particular provision permitting the respondent to initiate fresh inquiry, on the same set of allegations, on the basis of which the earlier inquiry has concluded and employee has been exonerated, the second inquiry cannot sustain and deserves to be set aside. It is further apt to notice that the petitioner has already retired on attaining the age of superannuation and complainant has withdrawn his complaint.
5. Petition is allowed. Impugned charge sheet dated 25.01.2017 (Annexure P-5); inquiry report dated 20.03.2018 (Annexure P-9) and order dated 15.04.2019 (Annexure P-12) are hereby set aside.

27.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No