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

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**CWP-7143-2025 (O&M).  
Date of Decision: 01.04.2025.**

**RAM GOPAL**

... Petitioner

Versus

**STATE OF HARYANA AND OTHERS**

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

Present: Mr. Ankur Goyat, Advocate,  
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

**VINOD S. BHARDWAJ, J. (ORAL)**

The present writ petition has been filed seeking quashing of the impugned chargesheet issued vide memorandum dated 12.11.2024 as well as the memorandum dated 07.02.2025 along with all other consequential disciplinary proceedings on the ground that the same are arbitrary, baseless and are a result of mala fide and malicious motives of respondent No.3. A direction has also been sought to direct the respondents to treat the absence period of the petitioner from 24.10.2024 to 29.10.2024 and 01.02.2025 as leave period for medical reasons and to grant consequential benefits.

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2           A prayer has also been made for directing the respondent No.3 not to fix duty of the petitioner for more than 08 hours in view of the medical condition and Government Instructions dated 24.12.2021 along with that the respondent No.3 be directed not to harass the petitioner by not granting him medical or earned leaves despite genuine reasons by fixing duty for overtime, giving faulty buses and hill area routes.

3           Learned counsel appearing on behalf of the petitioner contends that the petitioner is suffering from backache due to which he is undergoing medication for the last three months. He submitted applications for medical leave along with valid medical certificates issued by the Government Hospitals to the General Manager, Haryana Roadways, Karnal but instead of sympathising with the petitioner, the General Manager harassed the petitioner by not granting leave to him. The period during which the petitioner submitted an application for medical leave has been treated as an unauthorised absence period and the charge sheet has now been issued to the petitioner for unauthorised absence. He contends that the petitioner has been penalised by respondent No.3 solely because he raised the issue regarding holidays and weekly off which he received while being deputed as an Ambulance Driver during Covid period, before the Assistant Labour Commissioner. The same is alleged to have bruised the ego of respondent No.3 and the administrative power is now being used to inflict punishment on the petitioner. Counsel contends that the petitioner has not been given his rightful dues and is being assigned duties which are not congenial to his medical condition and as such, the administrative power is being used for inflicting punishment.

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4 I have heard the learned counsel appearing for the petitioner and have gone through the documents available on record.

5 Undisputedly, the prayer made by the petitioner is to quash the chargesheet issued vide memorandums dated 12.11.2024 and 07.02.2025. The memorandum of chargesheet dated 12.11.2024 refers to the unauthorised absence of the petitioner for the period w.e.f. 24.10.2024 to 29.10.2024. The summary of charges notices that the petitioner failed to complete the designated 316 kilometers rotation on Karnal Haridwar (Night halt)-Karnal-Kaithal-Karnal route and also refused to proceed on the Karnal-Kaithal-Karnal route at 12:30 P.M. on 01.02.2025, resulting in a 124 kilometer shortfall in the designated route rotation which caused inconvenience to the passengers and financial loss to the Department. Even though the malice has been attributed to the purported harassment extended to the petitioner by respondent No.3, however, I find that the said submissions are more in the nature of defence of the petitioner. The proceedings are still at an initial stage and the petitioner shall have every opportunity to raise his defence and submit the documents which he is relying upon. Further, even though the petitioner has alleged harassment and humiliation by respondent No.3, however, malice against an office is not available and no person has been impleaded as a party due to which the allegation of malicious exercise of administrative power cannot be taken into consideration for want of impleadment of proper party.

6 Further, in so far as allegations levelled by the petitioner about purported non-consideration of the prayer and medical condition of the

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petitioner by the competent authority or the harassment is concerned, the scope of the present writ petition is not to the said extent. Since the issue is already a defence against the subject matter of charge levelled against the petitioner, hence, it would not be appropriate for this Court to comment on merits and/or admissibility of medical documents. The petitioner would undisputedly be at liberty to place reliance on the said documents during the course of departmental proceedings in his defence.

7 It has been held by the Hon'ble Supreme Court of India in the matter of **Radha Krishan Industries Vs. State of Himachal Pradesh and others reported as 2021 (6) SCC 771** that ordinarily when a statutory alternative remedy is available to a person, a writ Court should refrain from exercising the jurisdiction and the parties are required to first exhaust the statutory remedies. Approaching the Constitutional Courts at initial stage as a panacea and as a means of exemption from all pending proceedings would not ordinarily be promoted by this Court. The relevant paragraphs of the judgment of the Hon'ble Supreme Court are extracted hereunder: -

*“27. The principles of law which emerge are that:*

*27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*

*27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High*

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*Court is where an effective alternate remedy is available to the aggrieved person.*

*27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.*

*27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*

*27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*

*27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*

*28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad [Chand Ratan v. Durga Prasad, (2003) 5 SCC 399], Babubhai Muljibhai*

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*Patel v. Nandlal Khodidas Barot [Babubhai Muljibhai Patel v. Nandlal Khodidas Barot, (1974) 2 SCC 706] and Rajasthan SEB v. Union of India [Rajasthan SEB v. Union of India, (2008) 5 SCC 632] among other decisions.”*

8 In view of above, present writ petition is dismissed at this stage with liberty to the petitioner to raise all defence in departmental proceedings and to challenge the final orders.

9 In so far as the prayer of the petitioner about rotation of the duty hours is concerned, the petitioner may, if so advised, submit a representation to the higher authorities in the Department of Transport i.e. Director General of State Transport, Haryana. In the event of petitioner submitting any such application with respondent No.2 i.e. the Director General, State Transport, Haryana, an expeditious decision shall be taken thereupon and preferably within a period of 03 months of the receipt of a certified copy of this order.

**April 01, 2025.**  
**raj arora**

**(VINOD S. BHARDWAJ)**  
**JUDGE**

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