

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

CWP No.18667 of 1994 (O&M)
Date of decision: 14.1.2015

Dharam Pal

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. J.S. Yadav, Advocate for the petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana.

RAJESH BINDAL, J

The petitioner, namely, Dharam Pal, Head Constable, No. 221, who was serving in the Police Force, has filed the present petition impugning the orders dated 19.8.1992 (Annexure P-12) and 24.9.1992 (Annexure P-14), whereby the petitioner was dismissed from service and order dated 7.1.1993 (Annexure P-16), whereby while accepting his appeal, the punishment was reduced to reduction in rank by the appellate authority.

Learned counsel for the petitioner submitted that the petitioner was serving as Head Constable in Police Station, Dharuhera in June, 1992. On 22.6.1992, the petitioner was transferred as Guard to Punjab National Bank, Rewari (for short "the Bank"). After making an entry in the DDR, the petitioner left Dharuhera to join his new place of posting. He reported at the Bank as Guard on the same day at 2:50 p.m. Entry to that effect was made in the Rapat Roznamcha of the Bank. Charge of the previous place of posting was not taken from the petitioner. In the evening of 22.6.1992, the petitioner returned to Police Station Dharuhera to hand over the charge, but the complete charge could not be handed over on the same day. On 23.6.1992, at 8:05 a.m., he reached at the Bank. An entry to this effect was made in Rapat Roznamcha of the Bank. After performing his duties at the Bank, the petitioner left for Dharuhera on 23.6.1992 at 6:15 p.m. and entry to that effect was made in the Rapat Roznamcha of the Bank. After handing over the charge of the investigation pending with the petitioner at Dharuhera, the

petitioner reported back as Guard with the Bank at Rewari on 24.6.1992 at 9:20 a.m. It was submitted that on the allegation of going to Dharuhera on 22.6.1992 and 23.6.1992 without information, charge-sheet was issued and the enquiry was got conducted. Though the charge was proved against the petitioner, however, the same was without considering the material on record. The petitioner had to leave Dharuhera immediately on receiving wireless message and had to go back again for handing over the charge of the investigations pending with him. He was not absent from his duty as is sought to be claimed. The disciplinary authority was too harsh in awarding punishment of dismissal from service merely on account of a day's absence from duty, even though the same is not admitted. He further submitted that proper opportunity of hearing was not given to him. No doubt, the appellate authority has reduced the punishment from dismissal to reduction in rank but even that is also dis-proportionate to the allegation against the petitioner, even if treated to be proved.

On the other hand, learned counsel for the State submitted that during the course of enquiry, the fact that the petitioner had handed over the charge before leaving Dharuhera to join the new place of posting, was duly proved. The petitioner could not lead any evidence to substantiate his plea that he had again gone to Dharuhera for handing over charge to the next incumbent on the post. Wrong plea was sought to be raised in defence. The disciplinary authority had afforded opportunity of hearing to the petitioner before inflicting the punishment of dismissal from service. He further submitted that the petitioner did not even consider the importance of his duty as a Guard with the Bank and left the place without informing the next higher authority. His absence was noticed by the SHO of the area concerned. He further submitted that the appellate authority taking a compassionate view of the matter, reduced the punishment from dismissal to reduction in rank. The same cannot be said to be dis-proportionate considering the fact that the petitioner is a member of disciplined force. He further submitted that even prior thereto, the petitioner was inflicted punishment of stoppage of six increments with permanent effect for his misconduct of consuming liquor while on duty.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the petitioner, who was serving as Head

Constable at Police Station, Dharuhera, was transferred to Punjab National Bank, Rewari as a Guard. He entered his departure report in the Rapat Roznamcha on 22.6.1992 at 6:15 a.m. (Annexure P-1). It is specifically mentioned in the aforesaid report that the file of charge was handed over to Head Constable, Rohitash Singh No.342. On the same day, he made entry of his arrival after transfer at 2:50 p.m. in the Rapat Roznamcha at the Bank. On 22.6.1992, at 3:25 p.m., there is an entry in the Rapat Roznamcha at the Bank when Constable Krishan Kumar, No.420, recorded that the petitioner was missing and had gone without any information. At 4:00 p.m. on the same day, there is another entry made by said Krishan Kumar that despite searching at Bus Stand, Railway Station, tea stalls and Hospitals, he did not find the petitioner, who was on duty at the Bank. At 5:50 p.m. on the same day, there is entry in the Rapat Roznamcha at the Bank made by the Inspector/SHO along with other officials that the petitioner was found absent from duty. He further recorded in the aforesaid Rapat Roznamcha that when the petitioner comes back on duty, he should first report to the SHO before entering his return in the Rapat Roznamcha.

On the aforesaid allegation of unauthorised absence from duty, enquiry was initiated against the petitioner. During enquiry, the charge was proved, as it was found that before leaving Dharuhera, the petitioner had handed over the charge to Head Constable Rohitash Singh, No.342. No evidence was produced by the petitioner in support of his claim that he was to hand over any charge pertaining to the investigation assigned to him at Dharuhera, for which he had to go back. Still, permission of the competent authority was required before leaving the place of posting. The petitioner, who had been assigned important duty as a Guard at the Bank, could not leave without any intimation. During enquiry, the defence sought to be raised by the petitioner was found to be false and the charge was proved after affording opportunity of hearing, which the petitioner did not avail of. The disciplinary authority inflicted punishment of dismissal from the service. Against the order of dismissal, the petitioner filed an appeal. The appellate authority finding that the charge against the petitioner was duly proved, but still considering that the punishment of dismissal was not commensurate with the charge proved, reduced the punishment from dismissal from service to reduction in rank.

Prior to the aforesaid punishment, the petitioner had been inflicted punishment of stoppage of six increments with permanent effect for his misconduct of consuming liquor while on duty.

As far as the contention raised by learned counsel for the petitioner that the punishment inflicted is dis-proportionate to the charge proved is concerned, it is suffice to add that the court can interfere in an order passed by the competent authority on quantum of punishment, if the punishment inflicted is shockingly dis-proportionate. The case in hand is not such. The petitioner had been posted as a Guard with the Bank, which is an important assignment for the member of a disciplined force. He left the place of his duty without permission or even intimation to any of the authority. The plea raised by him in defence that he had gone to hand over the charge of the previous post held by him, was found to be false.

In view of my aforesaid discussions, I do not find that any case is made out to interfere in the present petition. The same is dismissed.

(RAJESH BINDAL)
JUDGE

14.1.2015

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