

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3191 of 2002

Date of Decision: 14.10.2015

ASI Balbir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The matter is on the regular Board.
2. No one appears for the petitioner and request has been routed through Advocate's Clerk for an adjournment by requesting the learned counsel waiting for his case to be called to make a mention.
3. In the circumstances, Mr. Amit Chopra, learned counsel has been appointed as amicus curiae to assist this Court. He has examined the paper book.
4. Mr. Manuja submits that the impugned order dated January 09, 2001 passed by the Senior Superintendent of Police, Amritsar forfeiting two years of approved service of the petitioner, who was serving as Assistant Sub Inspector of Police posted at Brahmboota (Kotwali Amritsar) and consequently his pay has been reduced by two increments permanently.
5. The charge against the petitioner was that while he was posted at

Police Station Brahmboota one Dr. Pal s/o Charan Singh r/o Nakodar made a statement before the Police that his Maruti Car No.PB08-B-1478 1478 Model 1990 white colour was stolen by unknown person/s while the car was parked in front of Harmandir Sahib (outside the Golden Temple at Amritsar). On the statement of the complainant FIR No.91 dated August 08, 1999 was registered for theft under section 379 of the IPC at Police Station, Kotwali, Amritsar where the petitioner was posted. It was found during investigation of the case that the petitioner did not take any interest in the investigation to hunt out the culprit and this was viewed as a serious matter since the petitioner had violated the provisions of Rule 25.2 (3) and 16.9 of the Punjab Police Rules, 1934 for negligence in performance of duty. Due to carelessness in making investigation, a regular departmental inquiry was instituted on October 28, 1999 against the petitioner. A regular inquiry was conducted by the DSP, Rural, Amritsar as he inquiry officer. The petitioner denied the allegations and claimed trial at the departmental inquiry. Evidence was recorded with full opportunity to the delinquent to lead defence evidence and to cross examine the prosecution witnesses. The charge was proven. The report was submitted. It was considered by the disciplinary authority i.e. Senior Superintendent of Police, Amritsar who was the disciplinary authority of Assistant Sub Inspectors of Police. The procedure was followed and a show cause notice was issued to the petitioner through special messenger to explain his conduct of showing lack of interest and due diligence in the investigation. It was proposed in the show cause notice as to why two years of approved service may not be forfeited for the purpose of increments by way of punishment. He was

supplied a copy of the inquiry report to file objections, if any, against the report. He submitted his reply. The reply was considered and the competent authority found no reason to disagree with the findings recorded in the inquiry report after appreciating the evidence adduced by the petitioner and the Presenting Officer before the inquiry officer. The inquiry report was examined by the SSP, Amritsar who reached the conclusion that the allegations levelled were proved and the findings were unexceptionable and because the discipline of the Department had been compromised which is not a good thing in public view the penalty was inflicted. That is how the impugned order was passed on January 09, 2001.

6. The petitioner has approached this Court taking various pleas based on the testimonies of the witnesses. It was the ASIs case that on August 08, 1999 a car was stolen. He was put in charge of ballot boxes for the ongoing Parliamentary elections at P.B.N. Senior Secondary School from September 04, 1999 to October 08, 1999. The SHO, Police Station, Kotwali had recommended vide Zimni No.40 dated August 29, 1999 that the case should be closed as untraced. He admitted that the investigation of the case was entrusted to him on September 08, 1999. This meant that after the registration of the case and after one month the investigation was handed over to the petitioner the SHO had already recommended as above. The DSP Chaman Lal agreed with the recommendations of SHO. On the basis of recommendations of S.P. (D), the SHO Police Station, Kotwali vide Zimni No.43 dated September 26, 1999 sent the case file as an untraced theft case. It is, therefore, his case that action taken was not based on evidence and the inquiry officer did not properly assess the evidence.

During the short time that he had for the investigation he made every effort to trace the culprits of the blind offence, but in spite of getting help from Crime Record Office Branch the accused could not be traced and the petitioner had been made a victim of the departmental inquiry on wrong allegations.

7. The State has filed a reply. The State pleads that the petitioner failed to make sincere efforts to trace out the real culprit. It is not denied that the petitioner was also deployed on duty of ballot boxes but that did not mean that when appointed Investigation Officer could not deploy his secret sources to make a bona fide effort to trace out the thief. The case remained with the petitioner from September 08, 1999 to May 20, 2002 as recorded in para.7 of the written statement and yet he could not trace out the culprits even after such a long time taken in investigation. They have denied that SHO of the Police Station had kept the case after 20 days from registration of FIR No.91 dated August 08, 1999 under section 379 IPC Police Station 'E' Division, Amritsar.

8. Heard learned counsel.

9. It is well embedded in the law that adequacy or inadequacy of the evidence is not the domain of the Writ Court to assess in exercise of its supervisory jurisdiction of secondary review of the work of the primary authority. If the primary authority has taken a view on the subject matter then unless there are very good reasons for departure the opinion ordinarily cannot be substituted only for this Court to reach a different conclusion on the materials on record. It is well settled that this Court does not sit in appeal over the findings of the inquiry officer recorded by appreciation of evidence. It cannot be said that this is a case of no evidence and, therefore,

the findings stand vitiated.

10. No ground for interference is made out.

11. The petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

14.10.2015
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