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

**CWP No.10802 of 2012**

**Date of decision: 04.12.2015**

Surender Pal

....Petitioner

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. Sandeep Singh, Advocate  
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

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**DEEPAK SIBAL, J. (Oral)**

Through the present petition, challenge is made to the punishment order dated 30.04.2010 (Annexure P-2), order dated 13.07.2011 (Annexure P-3) passed in appeal against the punishment order and to the order dated 23.01.2012 (Annexure P-4) which was passed in the revision petition filed by the petitioner against the aforementioned order of the appellate authority.

A few relevant facts which need to be noticed are that the petitioner, who was serving the State of Haryana as an Assistant Sub Inspector was the Investigating Officer in an FIR registered under Sections 406, 420, 467, 468, 471, 504, 506 and 120B IPC. The investigation done by him was reviewed by the Senior Superintendent of Police, Karnal in which several shortcomings

were found on the basis whereof, the petitioner was chargesheeted for the following acts of omission and commission:-

*"1. During the course of investigation the defaulter did not join any eye-witness of the case.*

*2. The complainant was also not got joined by the defaulter during the investigation of this case and did not try to find out the facts and also did not enquire from the accused persons.*

*3. The defaulter did not approach the concerned Embassy to enquire about the visa and tickets that whether these are fake or otherwise and, also did not make any efforts to find out the facts of the case."*

The reply of the petitioner to the chargesheet having been found unsatisfactory, he was subjected to a departmental enquiry in which, after scrutiny of the record, he was found guilty. A copy of the enquiry report was supplied to the petitioner along with a show cause notice, to which he submitted his reply, after consideration whereof, the Punishing Authority vide order dated 30.04.2010 imposed the punishment of forfeiture of four annual increments with permanent effect by holding as under:-

*"The above plea taken by the defaulter has no force and hence rejected. The finding report has been prepared and written by the enquiry officer on the basis of statements of prosecution witnesses, defence witness, written defence statement submitted by the defaulter and all other material available on record. The defence witnesses produced by the defaulter have made unsuccessful efforts to refute the*

*charges leveled against the defaulter. Their evidence becomes weightless and seems to be a concocted story before the evidence of the prosecution witnesses. Thus, the findings of the enquiry officer is quite clear on all aspects and based on facts and documentary evidence. The defaulter has committed gravest act of misconduct and proved carelessness and negligent in the discharge of his important duty. Therefore, the reply submitted by the defaulter is rejected being devoid of merit. The charge framed against the defaulter is thus proved without any shadow of doubt. Rest of the pleas taken by the defaulter have no force and hence rejected.*

*I have given my thoughtful consideration to the quantum of punishment in this case. During personal hearing the defaulter could not add anything new in addition to his written submission. Keeping in view all the pros and cons of the enquiry and all the material on record, the charges against the defaulter as leveled in the charge-sheet are fully established. Hence, I am constrained and left with no option except to inflict the punishment as has been proposed in the show cause notice. Hence, I order accordingly i.e. four annual increment of the defaulter ASI Surender Pal Singh No.14/JJR is hereby stopped with permanant effect."*

On appeal, the Appellate Authority after keeping in view the length of service of the petitioner and the submissions made by him at the time of personal hearing reduced the punishment to stoppage of one future annual increment with permanant effect.

The revision petition filed by the petitioner against the order passed by the Appellate Authority was dismissed.

I have heard learned counsel for the parties and gone through the material available on record.

No violation of any procedure as also the applicable rules has been pointed out. It has also been conceded that at all stages of the disciplinary proceedings, the petitioner was granted adequate opportunity. However, learned counsel for the petitioner submits that a perusal of the statement of Pawan Kumar who was the SHO, shows that in the investigation in question, the petitioner, as Investigating Officer had not examined the complainant or any other witness on the ground that the complainant kept on prolonging the matter to maintain pressure on the accused with a view of getting his money back. It is thus submitted that since the complainant himself was not interested to get his statement recorded, no fault could be found with the petitioner in the conduct of his investigation.

The argument raised on behalf of the petitioner is only to be considered, to be rejected. It is not for the complainant to dictate how the investigation of a case is to proceed. Once an FIR has been lodged, the petitioner, as Investigating Officer should have recorded the statement of the complainant and other witnesses without any delay and should have proceeded as per law. This is exactly what has been stated by PW-3/Jagdish Singh who was the Reader in the office of Superintendent of Police as under:-

*"It is stated that on 15.07.09, Shri K.K. Rao, I.P.S., Superintendent of Police, Karnal had perused FIR No.568 dated 22.12.2008, under Sections*

406/420/467/468/471/504/506/120B I.P.C. Police Station Sadar, Karnal, the scrutiny report of which has been seen by me in the file available with you which has been marked by you as Ex.PW4/A. From the scrutiny it was found that investigation of this case was being conducted by A.S.I Surender Pal, Police Station Sadar, Karnal. This case was registered on the basis of a complaint filed by Gurdev Singh son of Piara Singh, resident of Santokhpura, Kurukshetra under Section 156(3) Cr.P.C. against Darshan Singh son of Nahar Singh, resident of Kapura Road, Jalandhar and his wife Sonia, Harbans son of Jail Singh, resident of Samalkha, Roop Lal son of Rukha Ram, resident of Dala Chotikiri and his wife RajKaur on the allegations that these persons had taken Rs.5.00 lacs at Kachhwa Farm, Karnal for sending his son Manjinder Singh to England. After some days, a Visa and Passport were shown to him which were found to be forged. During investigation, from the registration of the case till its scrutiny, no action has been taken. Neither any eye witness has been joined in the investigation nor efforts were made to bring out the truth after joining the complainant in the investigation and nor any inquiry was made from the accused. No efforts were made to bring out the truth regarding forged Visa and Ticket by contacting from the Embassy. From the registration of this case till scrutiny of the same, A.S.I. Surender Pal is fully responsible regarding the mistakes committed by him."

The afore quoted statement along with other evidence has been considered to prove the misconduct on the part of the petitioner which according to me has rightly been accepted by the

Punishing Authority, Appellate Authority and the Revisional Authority. In view of the aforesaid facts, punishment of stoppage of one increment with cumulative effect has rightly been imposed upon the petitioner and consequently the present petition, being bereft of any merit, is ordered to be dismissed.

No costs.

**( Deepak Sibal )**  
**Judge**

04.12.2015  
*anju rani*