

In the High Court of Punjab and Haryana at Chandigarh

RSA No.1999 of 2005 (O&M)

Date of decision: September 30, 2015

State of Haryana and others

..... Appellants

Versus

Constable Samunder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Manoj Dhankar, Assistant Advocate General,
Haryana.

Mr. G.C. Shahpuri, Advocate for the respondent.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J.

The appellant-State of Haryana has impugned the judgment and decree dated 21.02.2005 passed by the learned Additional District Judge, Sonipat vide which the appeal filed by the plaintiff was partly

allowed against the judgment and decree dated 30.08.2004 passed by learned Additional Civil Judge (Sr. Divn.), Sonapat to the extent that the impugned order dated 03.04.2000 and order dated 26.03.2002 of punishment were set aside qua stoppage of nine annual grade increments. However, the stoppage of one annul increment was upheld.

The short controversy involved in the case is that on the night intervening 13/14.07.1988 UGC Devi Singh, Constable Balbir Singh, Constable Randhir Singh along with present plaintiff Constable Samunder Singh were on escort duty of under trial Gurmeet Singh at Civil Hospital, Sonipat. During the night intervening 13/14.07.1988, said Gurmeet Singh under trial escaped from the police custody. Consequently, FIR No.393/98 under Sections 223 and 224 IPC was registered against all the said four police employees. A separate departmental inquiry was also initiated against all the four employees. Vide impugned order Ex.P-3, their ten increments were ordered to be stopped with permanent effect.

Constable Samunder Singh filed a suit before the Lower Court, which was dismissed vide judgment and decree dated 30.08.2004. However, in appeal the impugned order was partly set aside as aforesaid.

I have heard learned counsel for the parties and have also gone through the Lower Court file.

The First Appellate Court has partly set aside the impugned order on the ground that similarly situated Constable Balbir Singh has been granted partial relief in the departmental appeal. The order of stoppage of ten annual future increments with permanent effect has been modified to the extent that only one future annual increment with permanent effect has been ordered to be stopped. The First Appellate Court has taken the view that the plaintiff, who is similarly situated, is to be treated on equal footing as Constable Balbir Singh and cannot be awarded different punishment.

I am of the view that the order passed by the learned Additional District Judge, Sonapat is based on sound reasoning. On the basis of same facts, different punishment cannot be awarded to different employees. Here all the four Constables were on the duty. The appeal of Constable Balbir Singh has been partly allowed by department and in place of ten annual future increments, only one annual future increment has been ordered to be stopped. In fact, Balbir Singh was alleged to be sleeping on duty. All the delinquent employees have already been acquitted in criminal cases. The lesser punishment was awarded to Constable Balbir Singh on the ground that he has been acquitted in the criminal case and that under trial has been re-arrested. Similar reasoning has been applied to the

present plaintiff. Therefore, there is no illegality or perversity in the order passed by the learned Additional District Judge, Sonapat. No substantial question of law arises. Hence, the present appeal is dismissed.

**(KULDIP SINGH)
JUDGE**

September 30, 2015

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