

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

CWP No. 2525 of 2009(O&M)

Date of decision : 14.05.2015

Girver Singh

..... Petitioner

versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. M.S.Dhami, Advocate for the petitioner.
Mr.Parminder Singh, Sr. Panel Counsel
for the respondents.

1. Whether Reporters of local papers 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?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the order of dismissal passed against him. The petitioner had joined the ITBPF as a Constable/GD on 16.3.92. On 03.10.1992 an incident occurred for which he was issued chargesheet under Sections 18(a) and 18(c) of ITBPF Act, 1992(hereinafter referred to as 'the Act') saying that on 03.10.2002 at about 2110 hrs he cocked and pointed his rifle at another Constable Md.Salammuddin while he was performing Sentry duty and that when he had reported for duty at 2140 hrs as against 2000 hrs, he was found in a state of intoxication. A Summary Force Court was convened at 1100 hrs on 8.10.2002 where the charge

was read out to him and another period of 24 hours was granted to him to prepare his defence. The Summary Force Court inquiry was conducted and after considering the entire evidence and having found the offences proved he was dismissed from service with further disability for joining Government service. Statutory appeal etc. having been dismissed he is before this Court.

The argument raised by learned counsel for the petitioner is that under the Act a period of 24 hours has to lapse between the issue of chargesheet and the actual summary force court. I have seen the original record and as per the same chargesheet was sent by the Commanding Officer at 11.00 a.m. on 07.10.2002. The Summary Force Court was convened at 11.00 a.m. on 08.10.2002 and the matter was adjourned for another 24 hours to await the petitioner to arrange his defence. In the circumstances adequate time has been granted to the petitioner as per the rules. This contention is rejected.

The second argument raised by learned counsel for the petitioner is that if the petitioner was himself on duty as Sentry he could not have been charged under Section 18(a) of the Act.

I find no incongruity in this also. The duty of the petitioner was to start at 8.00 p.m. As per the proven allegation he arrived an hour late in a drunken condition and when he was asked that he should not do his duty, he cocked his rifle at the Sentry who was on duty and it was with great deal of difficulty that he was disarmed and the threat averted. In the circumstances Section 18(a) of the Act is completely applicable. A perusal of the record reveals that the petitioner, who was

a member of the disciplined force, has been found guilty of a serious offence of having threatened a Sentry by pointing a loaded and cocked rifle at him in a state of drunkenness. The Guard Commander himself appeared as a witness and testified to the conduct of the petitioner.

The Hon'ble Supreme Court in the case of Union of India and another vs S.S.Ahluwalia, 2007(7) SCC 257, has held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

In view of the above judicial pronouncement I am of the considered opinion that the punishment awarded to the petitioner cannot be said to be so disproportionate to the charges found to be proved as to shock the conscience of this Court.

No other argument has been raised.

Petition is dismissed.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

May 14, 2015
sunita