

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10730 of 2013

DATE OF DECISION: 03.07.2015

Sultan Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Ravinder Malik, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the Departmental Inquiry dated 30.4.2009 (Annexure P-3), Show Cause Notice dated 14.5.2009 (Annexure P-4), order dated 16.6.2009 (Annexure P-6) passed by Superintendent of Police, Yamuna Nagar, whereby, five future annual increments of pay have been stopped with permanent effect, order dated 11.9.2009 (Annexure P-8) passed by Inspector General of Police, Ambala Range, Ambala Cantt, vide which, the appeal filed by the petitioner has been dismissed as well as order dated 25.5.2010 (Annexure P-10) passed by Director General of Police, Haryana,

vide which one future annual increment has been stopped with permanent effect.

Briefly, the facts of the case are that the petitioner was working as Assistant Sub Inspector at Police Station Farakpur, District Yamuna Nagar. A complaint was made by one Mukta against her husband and in laws for harassment on account of demand of dowry. On the basis of said complaint, FIR No. 86, dated 6.4.2008 under Sections 498-A, 406, 506 IPC was registered at Police Station Farakpur, District Yamuna Nagar. The petitioner was the Investigating Officer of the aforesaid case. Complainant-Mukta levelled allegations against the petitioner that the case was not investigated by the petitioner properly, dowry articles were also not recovered and he demanded bribe during investigation. On the basis of said complaint made by complainant-Mukta, departmental inquiry was initiated for not investigating the case of the complainant properly. The inquiry was conducted by Sh. Ashok Kumar, Deputy Superintendent of Police and the petitioner was charge-sheeted for not effecting recovery of dowry articles in the aforesaid FIR and for demanding and accepting money from the father of the complainant. The allegations of demand and receipt of any money from the father of the complainant could not be proved but the petitioner was held guilty for not effecting recovery of dowry articles. A show cause notice was issued to the petitioner for dismissal of his services, to which, he filed reply. After considering the reply filed by the petitioner, a punishment of stoppage of five future annual increments with permanent effect was awarded to the petitioner vide order dated 16.6.2009. Aggrieved by aforesaid order of punishment, the petitioner filed an appeal but the same was also dismissed on 11.9.2009. Thereafter the petitioner filed revision petition before respondent No.2, which was partly allowed and order of stoppage of five future annual increments was modified into

stoppage of one future annual increment with permanent effect vide order dated 25.5.2010. In the present petition, the petitioner has challenged departmental inquiry, show cause notice and order of stoppage of one annual increment with permanent effect by raising various arguments.

Learned counsel for the petitioner submits that the punishment awarded to the petitioner is contrary to the defence taken and reply to show cause notice has also not been taken into consideration. Learned counsel further submits that as per allegations in the complaint, the money was demanded from the father of the complainant but he was not examined. Neither demand nor acceptance of bribe was proved in the regular inquiry. Learned counsel also submits that the petitioner has falsely been implicated in the case, whereas, he has been acquitted by the trial Court. It is also the contention of learned counsel that all the proceedings initiated against the petitioner including punishment of stoppage of one future annual increment with permanent effect is liable to be set aside.

Learned counsel for the respondent-State submits that a detailed inquiry was conducted and it was proved in the inquiry that dowry articles were not recovered from the accused. Not only the statement of witnesses but reply of the petitioner to show cause notice was also considered and he was heard personally on 9.6.2009. Learned counsel further submits that by taking a lenient view the revisional authority reduced the penalty of stoppage of five future annual increment to stoppage of one future annual increment with permanent effect. Learned counsel for the respondent-State also submits that number of punishments were awarded to the petitioner during his service period as mentioned in para 2 of the written statement. On earlier two occasions his increments were stopped as he was negligent in performing his duties properly. He was also awarded punishment of Censure on four occasions.

Heard the arguments advanced by learned counsel for the petitioner as well as counsel for the respondent-State and have also gone through the impugned orders and other documents available on file.

Admittedly, the petitioner was the Investigating Officer in case FIR No. 86 dated 6.4.2008 registered under Sections 498-A, 406, 506 IPC at Police Station Farakpur, District Yamuna Nagar. On the basis of complaint made by one Mukta, he was charge-sheeted and regular inquiry was conducted. The allegations of not effecting recovery of dowry articles were proved and his five future annual increments were stopped with permanent effect. Although the appeal filed by the petitioner was dismissed but in the revision petition the punishment of stoppage of five future annual increments with permanent effect was reduced to stoppage of one future annual increment with permanent effect. This is not only a single case but on earlier occasions also the petitioner was awarded punishments on six occasions. The details of punishment awarded to the petitioner are reproduced as under:-

- “(i) Censure on 29.3.1991 for recording case diary after the lapse of 4-1/2 months in case FIR No. 217 under Section 61-1-14 Punjab Excise Act, PS Pehowa.
- (ii) Censure on 20.8.1999 for one day absence from duty.
- (iii) Censure on 23.8.2001 for negligence in duty.
- (iv) One annual increment stopped with permanent effect on 5.4.2006 for showing negligence in duty and for releasing the accused of FIR No. 248/05, PS City Thanesar, Kurukshetra.
- (v) Censure on 4.7.2006 for showing negligence in duty and not sending monthly report.
- (vi) Five annual increments stopped with permanent effect on 16.6.2009 which later on reduced to that of one increment

stopped with permanent effect on 28.5.2010 in revision for not proper investigation in case FIR No. 86/08 of PS Farakpur.

(vii) One annual increment stopped with permanent effect on 11.4.2011 for having been arrested in case FIR No. 180/10 under Section 302/452/109/116/120-B IPC and 25/54/59 Arms Act, Police Station Thanesar and in case FIR No. 196/10 under Section 25/54/59 Arms Act, PS Thanesar. In review the petitioner was dismissed from service by the IGP, Ambala Range, Ambala Cantt.”

There is nothing on record to prove that the fact finding inquiry was conducted wrongly with malafide intention. There is also no violation of principles of natural justice as he was also given proper opportunity of hearing as well as of filing the reply. It is also apparent that the revisional authority has reduced the penalty from stoppage of five future annual increments to stoppage of one future annual increment by taking a lenient view. Moreover, the past conduct of the petitioner would show that the petitioner is habitual offender as he has been awarded punishment on six occasions. It is not necessary that in case the petitioner has been acquitted by the trial Court then he cannot be punished in the departmental inquiry. There is different yardsticks in criminal case as well as in departmental proceedings. The guilt is to be proved in criminal case beyond reasonable doubt but in departmental proceedings the statement of witnesses and procedural parameters have to be adopted.

In view of what has been discussed above, there is nothing on record to show that the petitioner has not been awarded proper opportunity to defend himself and punishment awarded to him cannot be said to be on the excessive side. I find no merit in the submissions made by learned

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(6)

counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

July 03, 2015
pooja

(DAYA CHAUDHARY)
JUDGE