

**CWP NO. 15012 OF 2012(O&M)
Date of decision: 12.03.2015****Ajit Singh****..... Petitioner****versus****State of Punjab and others****..... Respondents****Coram: Hon'ble Mr. Justice Rakesh Kumar Jain****Present:** Mr. Manish Dadwal, Advocate
for the petitioner.

Mr. Harkesh Manuja, Addl.AG,Punjab

Rakesh Kumar Jain,J.(Oral)

The petitioner has filed a writ of certiorari for quashing the orders dated 25.05.2010(Annexure P-3) and 28.01.2011(Annexure P-7) and has also prayed for writ in the nature of mandamus directing the respondents to release the amount of ₹8,83,195/- which has been wrongfully withheld/adjusted, alongwith interest @18%, as the said amount is not liable to be recovered from the petitioner.

The allegation against the petitioner has been proved in the inquiry dated 14.04.2009 (Annexure P-1) in which it has been concluded that the petitioner was negligent in the performance of his duties and he did not inform about the loss caused to the forest to the higher authorities and nor he took any action, though, he was posted at the Bilga Beat of Jalandhar

Forest Division Phillaur Range (concerned forest) from 4.06.1999 to 25.11.1999.

Counsel for the petitioner has referred to a finding recorded by the inquiry officer to the effect that Manjit Singh, Forest Guard, the State witness, has agreed that at the time of checking, no fresh loss was seen because Ajit Singh Forest Guard was the Incharge of this Beat for 5 months.

In view of the categoric finding that he was only negligent in not informing the higher authorities about the alleged theft of the forest much less the trees, the petitioner should not have been saddled with the punishment of recovery of ₹8,83,195/-. It is submitted by learned counsel for the petitioner that the punishment should commensurate with the offence committed.

Counsel for the respondent has though defended the action of the respondents but could not deny the aforesaid findings recorded by the inquiry office.

Thus, in these facts and circumstances of the case, I am of the considered opinion that the punishing authority has to reconsider its order in so far as the punishment which has been awarded to the petitioner is concerned because no loss has been caused by him, even admitted by the inquiry officer as the petitioner has been found only negligent in the discharge of his

duties. In view of the aforesaid discussion, the present writ petition succeeds and the order of imposing the punishment of recovery of ₹8,83,195/- is hereby set aside and the matter is remanded back to the competent authority to decide it again about the punishment of the petitioner on the basis of inquiry report in which he has been found to be negligent. The needful shall be done within a period of 3 months after receiving the certified copy of this order after associating the petitioner in the process.

12th March, 2015
Shivani Kaushik

[RAKESH KUMAR JAIN]
JUDGE