

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

**CWP No.16283 of 2012 (O&M)
Date of decision: 15.05.2015**

Diwan Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers 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. V.B.Aggarwal, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G.Haryana.

AMIT RAWAL J. (Oral)

Challenge in the present writ petition is to the orders dated 20.07.2010, Annexure P-9 and 16.08.2011, Annexure P-11, whereby, the petitioner has been imposed the punishment of stoppage of one annual increment with temporary effect and the appeal filed against the aforementioned order has been dismissed by the Director General of Police, Haryana, Panchkula.

Mr. V.B.Aggarwal, learned counsel for the petitioner submits that in pursuant to the imposition of charges on the petitioner, an enquiry officer was appointed who vide his report dated 03.01.2008 proved the charges against the petitioner. However, after

considering the enquiry report, which was duly replied, the Superintendent of Police vide order dated 7.10.2009, by passing the detailed order exonerated the petitioner from the charges. Next higher authority i.e. Inspector General of Police, did not agree with the order of Superintendent of Police, served a show cause notice dated 29.04.2010 (Annexure P-7) calling upon him to file reply as to why the petitioner should not be inflicted punishment of stoppage of annual increment with temporary effect. The petitioner filed detailed reply dated 19.5.2010 (Annexure P-8) to the aforementioned show cause notice and the Inspector General of Police, vide order dated 20.07.2010 while rejecting the reply of the petitioner, imposed the aforesaid penalty. Operative part of the order reads thus:-

"I have gone through the replies submitted by the delinquents and departmental enquiry proceedings. In their replies, the delinquent have stated that they have not misbehaved with P/SI Dinesh Kumar and it has also not been proved in the enquiry report that they have pushed P/SI Dinesh Kumar and kept foot and rifle on his chest.

The version of the delinquents is wrong, because they have been found guilty in the departmental enquiry for misbehaving and getting down to P/SI Dinesh Kumar from the stage. They were summoned for personal hearing. ASI Diwan Singh No.413/CPF appeared before

the undersigned on 24.6.2010 where Const.Krishan Kumar No.277/CPF appeared on 12.7.2010. During personal hearing, they said nothing except what they have already stated in their replies. Keeping in view their service record, I take a lenient view and award them a punishment of stoppage of one annual increment with temporary effect as proposed which will meet the end of justice.

A copy of order be supplied to the delinquents ASI Diwan Singh No.413/CPF and Const.Krishan Kumar No.227/CPF, free of cost.

*Sd/-
Inspector General of Police,
Railways & Technical Service,
Dated:20.7.2010 Haryana, Panchkula.”*

The petitioner filed an appeal by availing statutory remedy under the Punjab Civil Services Rules as applicable to Haryana. A copy of the same has been annexed as Annexure P-10. However, the Director General of Police as Appellate Authority vide order dated 16.08.2011 dismissed the appeal, in a most sketchy and mechanical manner without giving any reason, much less, cogent reasons. The operative part of the order reads thus:-

“4. And whereas, I have carefully gone through the appeal, the departmental enquiry file and other relevant documents. The departmental enquiry has been held as

per procedure laid down in Police Rules and does not suffer from any legal infirmity. Various pleas raised by the appellant have been examined and found to be devoid of any merit. The punishment awarded to the appellant is fully justified and commensurate with his misconduct. I find no mitigating circumstances to interfere with the orders passed by IGP/Railways & TS(H) Panchkula. Hence, the instant appeal is hereby rejected.

A copy of this order shall be supplied to the appellant ASI Diwan Singh No.413/CPF free of cost.”

Mr. Hitesh Pandit, learned State counsel submits that the order passed by the authorities i.e. 20.7.2010, Annexure P-9 and 16.8.2011, Annexure P-11, are just, legal and fair and have been passed in a most pragmatic manner.

I have heard learned counsel for the parties and appraised the paper book.

Since the Superintendent of Police disagreed with the statutory enquiry report and filed the case, the order dated 20.07.2010 (Annexure P-9) of the Inspector General of Police, while rejecting the reply in a most mechanical manner imposed the punishment of stoppage of one annual increment with temporary effect. The relevant portion extracted supra does not meet with the requirement of principles of natural justice. It appears that there is non-compliance of the aforementioned principles, order is non-

speaking and does not contain any reason, much less, cogent reason. In essence, the order has been passed without application of mind. The same is the position with the order dated 16.8.2011 (Annexure P-11) of the Director General of Police extracted supra, whereby in a most erroneous and perverse manner, the Director General of Police dismissed the appeal without adverting to the grounds of appeal. The administrative authorities are expected to pass speaking order after giving proper hearing to the petitioner. From the contents of the order of the Director General of Police dated 16.08.2011, it is evident that petitioner has not been even heard and the order has been passed at his back. Such act on behalf of the administrative officer is deprecable. The affected employees are compelled to approach this Court and this Court time and again has noticed that the administrative authorities do not apply mind while dealing with the appeal or revision of the delinquent employees filed under the Punjab Police Service Rules as applicable to Haryana. Therefore, I deem it appropriate to issue general direction to such authorities that while deciding appeal on revision, they must apply their mind and assign reasons before passing any order but while doing an opportunity of hearing be given to the delinquent employee in order to meet with the standard of the natural justice.

In view of what has been observed above, orders dated 20.7.2010, Annexure P-9 and 16.8.2011, Annexure P-11, are hereby quashed and the matter is remitted back to the Inspector General of

Police to pass speaking order in a most pragmatic and reasonable manner. Similarly direction is also issued to the Director General of Police to decide the revision petition, if filed by following the principles of natural justice and after giving opportunity of personal hearing to the employee.

Accordingly, writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 15, 2015
savita