

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107

CWP No.21836 of 2013

Date of Decision:27.05.2015

Ram Sahai & another

.....Petitioners

Versus

State of Haryana & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

**Present: Mr.Bikramjit S.Patwalia, Advocate,
for the petitioners.**

**Mr.Hitesh Pandit, Additional Advocate General, Haryana,
for the State.**

- 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?**

AMIT RAWAL, J.(oral)

Learned counsel for the petitioners submits that on the basis of registration of FIR dated 01.02.2010 under Sections 147, 224, 225 and 223 IPC, Police Station Vrindavan, District Mathura(U.P.), the Superintendent of Police, Mewat at Nuh(respondent No.4), by invoking the provisions of Article 311 of the Constitution of India passed the order of dismissal, dated 05.02.2010(Annexure P-1), of the petitioners. It is pertinent to mention here that the petitioners, at the relevant point of time, were working as Exemptee Head Constables(EHCs). The contention of the learned counsel for the petitioners is that, at the relevant point of time, the petitioners were not convicted and only FIR was got registered against them. Though the

impugned order of dismissal(Annexure P-1) suffers from illegality, much less is vitiated in the eyes of law and is based on the basis of FIR, as the petitioners were dismissed from service without issuing any charge-sheet or conducting any regular inquiry. He further points out that vide judgment dated 11.02.2011(Annexure P-2), the petitioners have been acquitted by the trial Court and against the order of dismissal(Annexure P-1), a statutory appeal was filed by them as per provisions of Punjab Police Rules as applicable to Haryana. The detailed grounds along with the appeal were reported to have been annexed with the copy of the judgment, vide which, the petitioners were acquitted. The appellate authority, i.e. Inspector General of Police, South Range, Rewari, respondent No.3, vide order dated 29.07.2011(Annexure P-3), without assigning any reasons much less in a cryptic and non-speaking order, dismissed the appeal.

Even, the revision petition, against the aforementioned order, has also been dismissed by respondent No.2 vide order dated 30.10.2012 (Annexure P-5). He further submits that once the petitioners have been acquitted from the charges, for which, they were charge-sheeted, there was no occasion for the appellate authority, to dismiss the appeal in the same manner as it has been done. The appellate authority was enjoined under an obligation to address each and every point raised in the grounds of appeal, much less the ground of acquittal. Even, the petitioners have not been heard before passing the impugned order.

Learned State Counsel appearing on behalf of the State submits that the orders of dismissal passed by the Authorities, are fair, legal and justified and are in compliance with the principles of natural justice. It has been based on appreciation of oral and documentary evidence brought on

record, much less, on appreciation of law and, thus, there is no illegality and perversity in the findings recorded by the Authorities.

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

The operative part of the impugned order dated 29.07.2011 (Annexure P-3) reads thus:-

“Before disposing of the appeal, I have also heard the applicants in person on 06.07.2011. The punishment awarded is just reasonable and commensurate with the misconduct. There are no mitigating circumstances. I, therefore, reject the appeal of appellants Ex.EHC Ram Sahai No.635/MWT and Ex.EHC Madan Lal No.228/MWT being devoid of any merit.”

The conclusion arrived at shows that the Appellate Authority has not applied its mind while dismissing the appeal of the petitioners. The appellate Authority has not addressed all grounds of appeal including the specific ground of acquittal but rather dismissed the appeal in a shoddy and erroneous manner. Though, I have issued general directions to the Superintendent of Police, Haryana, to issue instructions to all the officers, who are dealing with the appeals of the policemen, to pass well-reasoned and speaking orders as and when any appeal or revision is filed. Be that as it may, since no reasons have been assigned in the impugned order dated 29.07.2011(Annexure P-3) and subsequent order dated 30.10.2012 (Annexure P-5) passed by respondent No.2, while dismissing the revision petition, are not sustainable and liable to be quashed.

The writ petition is accordingly allowed and the impugned orders are hereby quashed. The matter is remitted back to the Appellate Authority i.e. Inspector General of Police, South Range, Rewari, to decide the appeal of the petitioners afresh, in accordance with law, while dealing

with all the points mentioned in the grounds of appeal, much less after affording an opportunity of hearing to the petitioners. It is directed that the Appellate Authority shall decide the appeal of the petitioners within a period of three months from the date of receipt of certified copy of this order.

May 27, 2015
seema

(AMIT RAWAL)
JUDGE