

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

**CWP No.23054 of 2013
Date of decision: 13.03.2015.**

Jaan Mohammed

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 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. R.S. Hooda, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondents – State.

Daya Chaudhary, J.

The present writ 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 of impugned order dated 01.06.2011 (Annexure P-3), whereby, punishment of stoppage of two annual increments has been imposed upon the petitioner and order dated 25.08.2011 (Annexure P-4), whereby, the appeal filed by the petitioner has also been dismissed by passing a non-speaking order.

The petitioner was enrolled as Constable in Haryana

Police on 15.10.1979 and was posted at Gurgaon. He appeared in test of Lower Course in the year 1999 and thereafter, was promoted as Head Constable in the year 2002. He was further promoted as ASI in the year 2008. He was charge sheeted in the year 2009 because of the allegations that he did not take any action against accused, namely, Rohtash under Section 154 Cr.P.C. eventhough he hit a girl while driving his car in a rash and negligent manner on the wrong side and concealed the offence by taking no action thereupon. Even the reports in the Roznamcha were tempered with or changed. The petitioner submitted reply to the charge-sheet and inquiry was handed over to Additional Deputy Superintendent of Police, Palwal. In the initial inquiry report, the petitioner was found innocent but as per report dated 09.03.2009, he was found guilty and was awarded punishment of stoppage of two annual increments temporarily vide order dated 01.06.2011.

Aggrieved by the said order, the petitioner preferred an appeal before Inspector General of Police, South Range Rewari and the same was dismissed vide order dated 25.08.2011.

Thereafter, the petitioner filed revision petition before Director General of Police, Haryana, which was also dismissed vide order dated 23.01.2012.

Learned counsel for the petitioner submits that a harsh punishment of stoppage of two annual increments has been awarded to the petitioner eventhough he was found innocent in the initial

inquiry and was not associated in the subsequent inquiry, which is by itself contrary to principles of natural justice as well as service jurisprudence. Learned counsel for the petitioner also submits that no reason was given for not accepting the initial inquiry, which was in favour of the petitioner. The action taken by the respondents is also contrary to the provisions of Rule 16.25 of Punjab Police Rules as well as Article 311(2) of the Constitution of India.

Learned State counsel submits that the initial inquiry report submitted by the Enquiry Officer was not accepted by the Punishing Authority as the Punishing Authority was not satisfied with the findings recorded by the Inquiry Officer. The inquiry was not based on the facts as not only he has performed his duty improperly but has also made certain changes/cuttings in the report already written in Roznamcha Register/Daily Dairy in the Police Station Hodal. Learned State counsel further submits that even the punishment of stoppage of two future annual increments with temporary effect was awarded and hence, no interference is required in the case. Learned State counsel also submits that not only the appeal was dismissed but the revision petition filed by the petitioner was also dismissed.

Heard arguments of learned counsel for the petitioner as well as learned State counsel.

Admittedly, the charge-sheet was issued to the petitioner to which he has submitted his reply. An inquiry was also conducted wherein he was found to be innocent. Said inquiry report was

submitted before Punishing Authority but the Punishing Authority was not satisfied with the finding recorded by the Inquiry Officer and issued a disagreement note dated 27.10.2010. After considering the stand of the petitioner, a lenient view was taken and punishment of stoppage of two annual increments with temporary effect was awarded to him, which is a minor penalty. The petitioner was also given an opportunity of personal hearing and to cross-examine the witnesses as well. He was also heard in person on 31.05.2011. Meaning thereby, it cannot be said that the petitioner was not given an opportunity of personal hearing and the inquiry was conducted at his back. When the Punishing Authority was not satisfied with the initial inquiry report, a notice was issued to the petitioner to which, he filed reply. Even a copy of dissenting report was also supplied to him. The appeal as well as revision filed by the petitioner were also dismissed by mentioning that a lenient view has been taken.

Keeping in view the facts as mentioned above, there is no merit in the contentions raised by learned counsel for the petitioner and the writ petition being devoid of any merit is hereby dismissed.

13.03.2015
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(DAYA CHAUDHARY)
JUDGE