

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

CWP No.6597 of 2011 (O&M)
Date of decision: 11.05.2015

Rishi Pal
Vs. ... Petitioner

State of Haryana and others ... Respondents

CWP No.6961 of 2011 (O&M)

Pradeep Kumar
Vs. ... Petitioner

State of Haryana and others ... Respondents

CWP No.8573 of 2011 (O&M)

Constable Pardeep Kumar and others
Vs. ... Petitioners

State of Haryana and another ... 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. Rakesh Gupta, Advocate
for the petitioner in CWP Nos.6597 and 6961 of 2011.

Mr. Naveen Daryal, Advocate
for the petitioners in CWP No.8573 of 2011.

Mr. Keshav Gupta, AAG, Haryana.

AMIT RAWAL J. (Oral)

I propose to decide three writ petitions bearing Nos.6597, 6961 and 8573 of 2011 by a common order as the question of law and fact involved are same.

All the petitioners were appointed as Constables. While in service, were involved in FIR No.61 dated 15.09.2007 registered under Section 395 I.P.C., Police Station, Bapoli in CWP No.6597 and 6961 of 2011 and FIR No.8 dated 07.01.1999 under Sections 224/225-A/332/353/186 IPC at P.S. Thaveera (in CWP No.8573 of 2011).

During the pendency of the aforementioned criminal case, the petitioners were served with show cause notice and as well the adverse remarks from the office of Superintendent of Police, Rohtak. Accordingly, show-cause notice was issued calling upon the petitioners to file reply within a period of 15 days. The petitioners submitted reply to the show cause notice. Vide order dated 13.06.2009 (Annexure P-5), after considering the reply filed by the petitioners, three annual increments of the petitioners were stopped with permanent effect.

Against the aforementioned punishment, all the petitioners filed statutory appeal, as per the provisions of Punjab Police Service Rules as applicable to Haryana and the Inspector General of Police, Rohtak, Range Rohtak, vide order dated 15.09.2009 (Annexure P-7) passed the order in a most mechanical,

much less, shoddy manner and dismissed the appeal. In essence, the order has been passed without application of mind and the appeals have been rejected without dealing with the points raised in the grounds of appeal.

The petitioners stated to have received show cause notice dated 25.11.2010, Annexure P-8 under Rule 16.28 of the Punjab Police Service Rules as applicable to Haryana, as why punishment imposed by the competent authority should not be enhanced to that of punishment of dismissal from Government service.

It is pertinent to mention here that during the interregnum, petitioners were acquitted in the aforementioned FIR, vide judgment dated 13.05.2010. Despite acquittal, the Director General of Police served the notice upon the petitioners for enhancing of punishment vide order dated 16.02.2011 (Annexure P-10). On receipt of the reply of the petitioners, all the petitioners were dismissed from the service.

Mr. Rakesh Gupta and Mr. Naveen Daryal, learned counsel for the petitioners contended that the order Annexure P-7 passed by the Appellate Authority has been passed without any reasons, much less, cogent reasons and the Director General of Police did not have any power to serve show cause notice for disagreeing with the order of the Inspector General of Police and therefore, the order dated 16.02.2011 is erroneous, illegal, much less, capricious.

Mr. Keshav Gupta, AAG, Haryana, submits that the DGP under the Rules has the powers to issue show cause notice for the purpose of enhancing the punishment.

Be that as it may, in the first instance when the petitioners had availed the remedy of filing an appeal, Inspector General of Police, Rohtak Range, Rohtak, was enjoined upon the obligation to look each and every ground of appeal, while dealing with the contention of the petitioners and thereafter could have passed the order by giving some plausible reasons. For the sake of brevity, the alleged reasons of dismissing appeal is extracted herein below:-

“ I have carefully gone through the case file, evidence on record. I have considered the appeal and reject it being devoid of any merit. A copy of the order shall be supplied to the appellant EHC Rishi Pal No.190/RTK.”

It is manifest that the respondents have not applied the mind as there could have been an occasion for the Inspector General of Police to arrive at opinion different from what formed and accordingly, punishment of stoppage of three annual increments has been imposed. In my view, the Appellate Authority being the Statutory Authority under the Rules has not exercised the powers in the manner as it ought to have been.

I deem it appropriate to allow the writ petitions by setting aside the order dated 15.09.2009 (Annexure P-7) as well as order dated 16.02.2011 (Annexure P-10) and remit the matter back to

respondent No.3 to decide the statutory appeal Annexure P-6 of the petitioners in a most pragmatic manner by passing the detailed and speaking order, much less, while dealing with each and every ground raised by the petitioners, in accordance with law.

It is expected that respondent No.3 shall decide the appeal of the petitioners after giving the opportunity to the petitioners, much less, in accordance with law, within a period of six months from the date of receipt of a certified copy of this order.

Writ petitions stand allowed accordingly.

(AMIT RAWAL)
JUDGE

May 11, 2015
savita