

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

CWP No. 6508 of 2015(O&M)

Date of decision : 08.04.2015

Pawan Kumar Bhardwaj

..... Petitioner

VS

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.SKS Bedi, Advocate for the petitioner.

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?

AJAY TEWARI, J. (Oral)

The petitioner has challenged the order whereby he was held guilty of negligence in not keeping documents (a register) safely and allowing them to go missing.

A regular inquiry was ordered. In the same the petitioner accepted that the file was handed over to him but maintained that the register which was part of the file was not handed over to him. Another plea taken by him was that in the year 1997 when he had joined the office it was working from make-shift premises, files were lying on the ground and it was in these circumstances that there was a possibility that the register may have gone missing. The Disciplinary Authority imposed a punishment of stoppage of 8 increments with cumulative effect. In appeal the Appellate Authority, after considering

all the facts, maintained the order of the inquiry officer holding the petitioner guilty but reduced the punishment to stoppage of 4 increments with cumulative effect.

The first argument of learned counsel is that the said document was never handed over to the petitioner by the previous Ahlmad. However, as regards this argument the Appellate Authority has correctly held that proof of handing over of each and every document cannot be possible and once the petitioner accepted that the file had been handed over to him he could not turn around and say that it was incomplete.

Another argument is that there was no malafide of the petitioner and it was only because of the fact that there was no proper premises and for this reason it was not humanly possible to maintain the files and it was only as a result of these circumstances beyond the control of the petitioner that the register may have gone missing.

In my opinion, the writ court can only interfere with the order of punishment if it is found to be so disproportionate that it shocks the conscience of the Court. The Hon'ble Supreme Court in the case of **Union of India and another vs S.S.Ahluwalia**, 2007(7) SCC 257, has held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for

reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

In the present case, even if it may be argued that the punishment could have been lesser, yet it cannot be said that it is so disproportionate as to shock the conscience of the Court.

Resultantly the petition is dismissed.

Since the main case has been decided, the Civil Misc.

Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

April 08, 2015
sunita