

LPA No. 1302 of 2015

Date of Decision: 29.10.2015

Jai Kishan

---Appellant

versus

State of Haryana and others

---Respondent

**Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. R.Kartikey, Advocate
for the appellant**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rajive Bhalla, J.

The appellant challenges order dated 19.5.2015 dismissing his writ petition challenging the imposition of a punishment of 10% cut in pension.

Counsel for the appellant submits that the order passed by the learned Single Judge is factually incorrect as the persons allegedly let off by the appellant during investigation, are still facing trial. The fact that the appellant is a police officer, who was accused of letting off certain accused appears to have weighed with the enquiry officer/punishing authority/Appellate Authority and the learned Single Judge while holding against the appellant. Counsel for the appellant further submits that a perusal of the evidence adduced during the enquiry reveals that none of the

witnesses have deposed that they had given a bribe to the appellant. The alleged telephone calls have also not been proved in accordance with law. Counsel for the appellant also contends that the order passed by the appellate authority is non-speaking and must therefore, be set aside.

We have heard counsel for the appellant, perused the impugned order as well as the entire paper book and are rather surprised that the appellant has got away with a punishment of 10% reduction in pension, the allegations being what they are. Be that as it may, the appellant while posted as a Sub Inspector at Police Station, Jhajjar was investigating an attack on a prison van during which police personnel and prisoners were injured. A perusal of the enquiry report, reproduced in extenso, in the impugned order, the order passed by the punishing authority etc. reveal that the appellant let off two of the accused who were later arrested, arraigned as accused and are facing trial. The appellant has been indicted by the enquiry officer for misconduct which is writ large on the facts of the case but as the appellant had retired, the punishing authority appears to have taken a lenient view of the matter. The appellant is also facing a criminal trial. The appellant's argument that there is an error in the impugned order as the trial is still pending, in our considered opinion, is irrelevant.

At this stage, counsel for the appellant states that dismissal of the appeal would adversely affect the criminal trial. The argument is fallacious as proceedings in a criminal trial and departmental proceedings are based on two different principles, the latter on the principle of preponderance of probabilities and former on the principle of proof

beyond a shadow of doubt. Consequently, finding no merit, the appeal is dismissed.

(Rajive Bhalla)
Judge

(Rekha Mittal)
Judge

29.10.2015
PARAMJIT