

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

LPA No.2155 of 2014 (O&M)

Decided on : 08.09.2015

Satya Pal

... Appellant

Versus

The District & Sessions Judge, Kurukshetra and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN**

Present : Mr.R.S.Malik, Advocate
for the appellant.

Mr.G.S.Attariwala, Advocate
for respondents No.1 and 2.

Mr.S.K.Biriwal, Advocate
for respondent No.4.

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?

Mahavir S. Chauhan , J.

Appellant, Satya Pal, while working as peon in the office of District and Sessions Judge, Kurukshetra, was served a charge-sheet on the allegations of being mischievous, disobedient, work-shirker and absence from duty. After obtaining his reply, which was found to be unsatisfactory, an enquiry was held wherein the appellant was afforded fullest opportunity to defend himself.

The competent punishing authority, after issuing notice to

show-cause to the appellant, and obtaining his reply thereto, considered the report of Enquiry Officer as also reply (Annexure P/13) submitted by the appellant and vide order dated 26.10.1990 (Annexure P/14), awarded punishment of dismissal from service to the appellant. On appeal, the Appellate Authority, vide order dated 18.09.1991 (Annexure P/16) converted the punishment of dismissal to removal from service.

To challenge orders dated 26.10.1990 (Annexure P/14) and 18.09.1991 (Annexure P/16), the appellant preferred CWP No.1703 of 1994, which after contest, has been dismissed by the learned Single Judge vide judgment dated 25.09.2014

Judgment dated 25.09.2014 passed by learned Single Judge is under challenge in the instant intra-court appeal brought by the appellant under Clause X of the Letters Patent.

The appeal is barred by time and there are applications for condonation of delay in filing and re-filing of the appeal. However, we have heard the learned counsel for the appellant on merits.

It is argued on behalf of the appellant that the punishment awarded to the appellant is dis-proportionate to the misconduct alleged against him. According to learned counsel for the appellant, the punishment of removal from service on account of single misconduct, cannot be said to be just and reasonable, and as such, the order of the punishing authority, as also that of the Appellate Authority, are liable to be set aside, but the learned Single Judge has

overlooked this aspect of the matter.

Nothing more has been urged.

Service of charge-sheet, holding of enquiry and correctness of the order of the punishing authority as regards acceptance of the finding recorded by the Enquiry Officer are not under challenge. It is also not the case of the appellant that proper procedure was not adhered to while conducting enquiry into the allegations against him. The only grievance of the appellant is quantum of punishment, i.e., removal from service.

However, while exercising jurisdiction under Clause X of the Letters Patent, this Court does not function as a departmental appellate authority. Even the Writ Court cannot assign to itself such a role. In fact, appreciation of evidence, as also quantum of punishment, fall within the exclusive domain of punishing authority. The departmental appellate authority can scan the evidence to find out any error in the decision taken by the punishing authority. The departmental appellate authority can also modify order on the quantum of punishment if it finds the punishment to be disproportionate or unreasonable. Neither the Writ Court nor the Letters Patent Bench can go into the sufficiency or adequacy of quantum of punishment awarded to a delinquent employee. It is for the departmental authorities to decide as to what punishment is proportionate to the misconduct alleged against the delinquent employee. This Court, no doubt, can interfere in the order on

quantum of punishment if the punishment is found to be extremely harsh and shakes the conscience of the Court. It can be done in rarest of rare cases. However, no such circumstances have been brought forth

The learned counsel for the appellant has not been able to point out any perversity, illegality or irregularity in the judgment passed by learned Single Judge.

For the foregoing reasons, we regret our dis-inclination to interfere with the well reasoned judgment passed by the learned Single Judge. The appeal, therefore, fails and is dismissed.

No costs.

[Satish Kumar Mittal]
Judge

[Mahavir S. Chauhan]
Judge

08.09.2015
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