

LPA-1826-2015(O&M)

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

LPA-1826-2015(O&M)

Date of decision : 23.12.2015

Ex.Ct/GD Girver Singh

... Appellant

Versus

Union of India and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE REKHA MITTAL***

Present: Ms. Sonia G. Singh, Advocate
for the appellant.

REKHA MITTAL, J.

CM-3935-LPA-2015

Prayer in this application is to condone delay of 29 days in re-filing the appeal.

Heard. For the reasons stated in the application and arguments addressed, the application is allowed and delay of 29 days in re-filing the appeal is condoned.

CM-3934-LPA-2015

Prayer in this application is to condone delay of 122 days in filing the appeal.

For reasons stated in the application and arguments addressed, the application is allowed and delay of 122 days in filing the appeal is condoned.

LPA-1826-2015

The present Intra-Court appeal has been preferred against the judgment dated 14.05.2015 passed by the learned Single Judge, dismissing the writ petition filed by the appellant assailing his dismissal from service rendering him ineligible for further employment in government service.

The sole submission made by counsel for the appellant is that as punishment of dismissal from service is not commensurate with the gravity of misconduct attributed to the appellant, the punishment awarded to him may be reduced to a lesser penalty.

We have heard counsel for the appellant, perused averments in the writ petition, the order passed by the learned Single Judge but find no reason to intervene.

The petitioner joined the Indo Tibetan Border Police Force as a Constable/G.D. On 16.03.1992. He was issued a charge sheet under Sections 18(a) and 18 (c) of the Indo Tibetan Border Police Force Act 1992 (in short 'the Act') on the allegations that on 03.10.2002 at about 2110 hours, he cocked and pointed his rifle at another colleague Constable Md. Slammuddin while he was performing sentry duty and when he reported for duty at 2140 hours as against 2000 hours, he was found in state of intoxication. After following due procedure in compliance with the relevant act/rules and taking into consideration the report of inquiry by the Summary Force Court, the impugned order dated

10.10.2002/12.10.2002 dismissing him from service was passed. The statutory appeal preferred by the appellant did not find favour with the competent authority.

The learned Single Judge after referring to the judgment of Hon'ble the Supreme Court of India in *Union of India and another Vs. S. S. Ahluwalia, 2007(7) SCC 257* came to hold that punishment awarded to the petitioner (appellant herein) cannot be said to be disproportionate to the charges found to be proved as to shock the conscious of the Court. The gravity of charge proved against the appellant, a member of a disciplined force, that he was found in a state of intoxication during duty hours, cocked and pointed his rifle at another Constable on duty, in our considered opinion, do not merit acceptance of his plea that the punishment awarded in the circumstances of the present case is either harsh or is not commensurate to the charge proved against him. We do not find any legal or jurisdictional error committed by the departmental authorities whose decisions have been affirmed by the learned Single Judge.

In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed in limine. No order as to costs.

(RAJIVE BHALLA)
JUDGE

(REKHA MITTAL)
JUDGE

December 23, 2015.

Davinder Kumar