

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

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Regular Second Appeal No.6238 of 2014 (O&M)
Date of Decision: August 24, 2015

H.C. Guriqbal Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. A.K. Walia, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.14856-C of 2014

Prayer in this application is for condonation of delay of 40 days
in re-filing the appeal.

The reason assigned for the delay in re-filing the appeal is that
after the Registry had returned the case file with certain objections, the same
were removed and the appeal was re-filed but in the said process there was a
delay of 40 days.

For the reasons mentioned in the application, the same is
allowed.

Delay of 40 days in re-filing the appeal is condoned.

RSA No.6238 of 2014

Challenge in the appeal is to the judgments and decree passed
by the Courts below, by which the suit for declaration that the order dated
28.09.1999 passed by the Superintendent-cum-Assistant Inspector General
of Police, Government Railway Police, Patiala, by which punishment of

stoppage of one increment and the forfeiture of service of one year has been imposed, as also order dated 17.03.2000 passed by the Inspector General of Police, Government Railway Police, Patiala, rejecting the appeal and the order dated 19.04.2004, whereby the revision preferred by the appellant-plaintiff was rejected by the Director General of Police to be illegal, *ultra vires*, unconstitutional, *mala fide*, *null and void*, against principles of natural justice and against the Punjab Civil Services Rules, stands dismissed.

2. It is the contention of the counsel for the appellant-plaintiff that the punishment, which has been imposed upon the appellant-plaintiff by the punishing authority i.e. Superintendent-cum-Assistant Inspector General of Police, cannot be sustained in the light of the fact that the Inquiry Officer in his inquiry report, on the basis of the fact that the sling of the carbine had broken down because of which the carbine fell down on the ground, which resulted in the burst of bullets being fired from it, found the appellant-plaintiff innocent. The punishing authority should have accepted the findings returned by the Inquiry Officer. He further contends that the punishment, as has been imposed, is on the higher side to the misconduct attributed to the appellant-plaintiff, which cannot be sustained.

3. This contention of the counsel for the appellant-plaintiff cannot be accepted in the light of the fact that although the Inquiry Officer had exonerated the appellant-plaintiff but the punishing authority thereafter proceeded to record a dissenting note and had proceeded in accordance with law to impose the punishment upon the appellant-plaintiff. The Appellate Authority and the Revisional Authority have gone into the merits of the case and rejected the same. The findings as recorded and the punishment as imposed by the punishing authority being in accordance with law and in

consonance with statutory rules, do not call for any interference.

4. The contention of the counsel for the appellant-plaintiff that the punishment, as has been imposed upon the appellant-plaintiff is on the higher side, also cannot be accepted as it is the punishing authority, who is the best person to assess the punishment to be imposed upon, specially when dealing with a disciplined force as the police. In any case, the punishment, as has been imposed upon the appellant-plaintiff, cannot be said to be disproportionate to the misconduct attributed to him.

5. Finding no merit in the present appeal, specially when there are concurrent findings recorded by the Courts below as also there being no substantial question of law, which requires adjudication by this Court, the same stands dismissed.

August 24, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**