IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 13937 of 1995
Date of decision : 23-02-2016

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R.K Gupta
...........Petitioner

Versus

The State of Haryana and another
..........Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: None for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

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1. *Whether Reporters of Local Newspapers 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?*

<u>RITU BAHRI, J</u>

The petitioner is seeking writ of certiorari for quashing the orders passed by the Excise and Taxation Commissioner, Haryana dated 28.5.1991 (Annexure P-3) imposing penalty of stoppage of one increment with cumulative effect and 10% cut in salary for the period of suspension for the period from 29.12.1989 to 15.6.1990 and the order passed by the Financial Commissioner and Secretary to Govt. of Haryana, Excise and Taxation Department dated 17.4.1995

(Annexure P-5) whereby an appeal against the order dated 28.5.1991 was dismissed.

The petitioner was working as Assistant Excise and Taxation Officer and was placed under suspension vide State Govt. orders dated 29.12.1989 but was reinstated vide order dated 15.6.1990. The petitioner was originally charge sheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules 1987 (hereinafter referred to as `the Rules') vide Govt. orders dated 23.3.1990. The proceedings were converted into under Rule 8 of the said Rules for the imposition of a minor penalty. Respondent no.2 thereafter proceeded departmentally against the petitioner and charge sheet under Rule 8 of the Rules was issued on 31.7.1990 (Annexure P-1) on similar and identical lapses. The petitioner gave his reply on 17.8.1990 (Annexure P-2). The allegations levelled against the petitioners were that he did not impose a penalty on the driver of vehicle JKP-5383 carrying timber for not producing S.T Form 38 which on inspection of the documents revealed that the goods were meant for consignment at Sonepat. The petitioner failed to register the case in the detection register and due to this lapse, the State Exchequer was put to a loss of Rs.20,000/-. In the subsequent case, the vehicle was detected after the person-in-charge of the goods failed to declare the goods at the entry of the barrier on 8.12.89 and no action was taken by him till the inspection on 28.12.1989. Vide order dated 28.5.1991 (Annexure P-3), a punishment of stoppage of one increment with cumulative effect besides a cut of 10% salary during the period of suspension was imposed. Against the punishment order dated 28.5.1991, the petitioner filed an appeal before respondent no.1 dated 24.7.1991 (Annexure P-4), however, the same was rejected vide order dated 17.4.1995 (Annexure P-5) by the Financial Commissioner and Secretary to Govt. of Haryana, Excise and Taxation Department-respondent no.1.

The short question for consideration in this case is whether a major punishment of stoppage of one increment with cumulative effect can be imposed when a charge sheet has been issued under Rule 7 for imposition of minor penalty

The stand taken by the respondents in the written statement is that before 19.11.1992 withholding of increments of pay was a minor punishment vide Rule 4(1)(v) of the Rules. It was further submitted that the case of ***Kulwant Singh Gill vs. The state of Punjab 1991(2) SCT 30***, is not applicable to the facts of the present case.

After hearing counsel for the parties and going through the contents of the writ petition and the written statement submitted on behalf of the respondents, I am of the opinion that no case is made out to set aside the impugned orders dated 28.5.1991 (Annexure P-3) and 17.4.1995 (Annexure P-5) as before 19.11.1992 withholding of increments of pay was a minor punishment.

Having regard to the aforesaid, the present petition is dismissed.

23.02.2016 **(RITU BAHRI)**
ritu **JUDGE**