

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

CWP No. 23994 of 2012

Date of decision : 27.09.2016

Randhir Singh

..... Petitioner

versus

State of Haryana & Ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present : Mr. K.S. Malik, Advocate for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. Having heard the learned counsel for the respective parties and paying due regard to the charge framed and the findings returned in the inquiry report duly accepted by the punishing authority and affirmed in appeal and revision. It appears to this Court that award of punishment of stoppage of five increments permanently is far in excess and wholly disproportionate to the charge even accepting the findings to be correct and unassailable and the inquiry conducted in a fair and proper manner.

2. Having regard also to the fact that the petitioner was a Dog Handler in the police department deployed in the Bomb Disposal Team, CID Haryana at Police Lines, Gurgaon and that the absence from duty was for 2 days 20 hours and 45 minutes when in those two days there was a Basic Sniffer Dog course at BTC/ITBP, Bhanu,

District Panchkula scheduled to be conducted which the petitioner missed attending is not a non-serious matter as it would have serious impact on the efficiency of the petitioner as a Dog Handler with the Bomb Disposal Team and, therefore, punishment is justified. However, when notice on the petition was issued to the State on December 5, 2012 it was called upon to justify quantum of punishment imposed on the petitioner which appeared excessive to the motion Bench. Notice was limited to gauge quantum of penalty.

3. It is true that right to impose punishment is discretionary power residing in disciplinary authority and such discretion ordinarily is not to be lightly interfered by the High Court since the Court does not sit in appeal either over the findings arrived at in the inquiry proceedings or the punishment imposed. The role of the writ Court begins and ends limited only for an examination of the intensity of the punishment and whether it is commensurate with the gravity and seriousness of the charge. To this end courts apply the test of reasonableness and Wednesbury principles stand satisfied on proportionality. Excessive punishment is always arbitrary. By applying those principles it appears to this Court that award of major punishment of withholding of five annual increments permanently is excessive, oppressive, disproportionate and arbitrary exercise of power. Discretion also has also to be exercised reasonably and thus the punishment would have to be moderated and re-modulated so that all aspects of the principles of natural justice appear to have been complied with on principles of equality, against unfair discrimination

and unreasonableness which cannot co-exist with Article 14 of the Constitution that all thinking processes are within the limits of exercise of powers vested in the disciplinary authority.

4. In the totality of facts and circumstances presented in this case I should think that punishment inflicted on the petitioner is excessively disproportionate to the charge even though the case was serious in nature and, therefore, I do believe that the matter should be re-examined afresh by the disciplinary authority at the highest level in the office of Director General of Police, Crime, Haryana so that the further layers of appeal and revision are excluded altogether to save time of the administration and of the petitioner.

5. Resultantly, the punishment order is found immoderate and bordering on arbitrariness and is hereby set aside and the case is remanded to the Director General of Police, Crime, Haryana to revisit the punishment part and to make a just and appropriate order balancing out holistically the gravity of the charge and the quantum of punishment by choosing one from among the range of major punishments less than the one imposed. The mantra to apply in the subject matter is to fit the punishment with the crime and the crime with the punishment in the probity, wisdom and rich experience in the top echelons of the police department. The setting aside of the impugned orders would not mean automatic disbursal of pecuniary and non-pecuniary benefits which would await orders on remand and paid accordingly. In this manner, the petition is partially allowed to

the extent indicated above and the case remanded to be re-decided in accordance with law.

27.09.2016
Yogesh/Vimal

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No