

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

Date of decision:23/09/2016

Bikkar Singh

.....Petitioner

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sanjeev Kumar Bawa,Advocate for the petitioner.

Jaswant Singh,J(Oral)

Petitioner, a dismissed Jail Warder, is seeking quashing of charge sheet dated 13.8.2010(P-1 colly.), dismissal order dated 8.3.2014 (P-3), order dated 26.5.2014(P-5) passed by ADGP (Prisons)Punjab dismissing his appeal as also the order dated 21.5.2015 (P-7) passed by Principal Secretary to Government of Punjab, Department of Home and Prisons, passed in appeal. Further prayer is to issue a writ of mandamus directing the respondents to reinstate the petitioner with full back wages.

Briefly noticed, on 8.7.2010 while posted as Warder in Central Jail Ludhiana, 1000 intoxicating tablets, kept concealed in his clothes and wrapped in a polythene, were recovered from the possession of the petitioner. With regard to the said recovery a charge sheet (P-1 colly.) was served upon the petitioner for proceeding against him under Section 15 of the Punjab Jail, Department States Services (Class-III)Executive Rules,1963 and Rule-3 of the Punjab Jail Department Executive Staff (Punishment and Appeal)Rules,1943 read with Rule 8 of the Punjab Civil Services (Punishment and Appeal)Rules,1970. Petitioner filed reply which did not find favour with the authorities and a departmental enquiry was initiated against him.

The Enquiry Officer, vide his report (P-2) concluded that petitioner was trying to take intoxicating tablets in Jail. The punishing authority after considering the report of the Enquiry Officer and granting opportunity of personal hearing to the petitioner, passed punishment order dated 8.3.2014(P-3)ordering dismissal of the petitioner from the service.

The appeals filed by the petitioner against said punishment orders were dismissed by the appropriate authorities vide orders dated 26.5.2014(P-5) and 21.5.2015(P-7) respectively. Hence the present writ petition.

It is submitted by the learned counsel for the petitioner that the impugned charge sheet (P-1), punishment order dated 8.3.2014(P-3) and orders dated 26.5.2014(P-5) and 21.5.2015(P-7) are liable to be quashed on the ground that neither opinion of Chemical Examiner was obtained with regard to the nature of the tablets recovered from the possession of the petitioner nor any case under the Narcotic Drugs and Psychotropic Substances Act was registered against him. It is further submitted that petitioner had an unblemished service record of 30 years in Jail Department and except the incident in question no other allegation, minor or major, had ever been levelled against him throughout his service.

After hearing the learned counsel for the petitioner, I find no merit in the submissions of the learned counsel for the petitioner.

It is not disputed that on 8.7.2010 at 7.40 a.m., 1000 tablets were actually recovered from the possession of the petitioner. The Enquiry Officer in his report has noticed that Mr. Gurbaxshind Singh, Deputy Superintendent Maintenance, Central Jail, Ludhiana stated that on receipt of information regarding recovery of intoxicating tablets he immediately reached at the spot, where Warder Amrik Singh, Warder Paramjit Singh, Warder Balbir Singh as also the petitioner was present. At that time statement of the petitioner was recorded in which he admitted that he was concealing 1000 tablets in his clothes for supplying the same to convicts. Further, Warder Amrik Singh, Warder Paramjit Singh, Warder Balbir Singh corroborated the statement of Mr. Gurbaxshind Singh, Deputy Superintendent Maintenance, Central Jail, Ludhiana. Thus, recovery of 1000 tablets from the possession of the petitioner stands established. As regards the nature of tablets whether intoxicating or not, it finds nowhere mention that petitioner had raised this objection at that time knowing fully well that if said tablets were sent to Chemical Examiner, his guilt would have been proved. No explanation, whatsoever, has come on record as to for what purpose the petitioner was trying to take such huge quantity of tablets inside the Jail Premises, from which an inference can be drawn that the

As regards non-registration of a criminal case, the petitioner is not entitled to derive any benefit from the laxity on the part of Jail authorities concerned.

As regards the alleged unblemished service record of the petitioner is concerned, the same cannot be taken as a ground to quash his dismissal keeping in view the nature of recovery and the purpose behind it. It cannot be lost sight of the fact that petitioner was a Jail Warder and supposed to curb illegal activities in the Jail premises whereas his conduct, as proved in the enquiry report, is to the contrary. Thus, the length of service cannot be taken as a leverage to let off the petitioner for such an illegal act on his part.

Dismissed.

23/09/2016
joshi

(Jaswant Singh)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable:	Yes/No