

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18276 of 2015

Date of Decision: 26.7.2016

HC Mohinder Singh

... Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Radhe Shyam Sharma, Advocate for the petitioner

Mr.Harish Rathee, Sr.DAG, Haryana

...

RAJIV NARAIN RAINA, J. (Oral)

The charge against the petitioner which led to departmental enquiry and infliction of major punishment of stoppage of five annual increments with cumulative effect is that he was involved as co-accused in a criminal case registered against one Ms. X for indulging in immoral trafficking of women and accused of running a brothel in Kurukshetra. The petitioner was one of 22 police officials named in the FIR. Besides the criminal trial, he was proceeded against departmentally by serving a charge-sheet on him and the domestic enquiry revealed unholy connection between the petitioner, a policeman, and Ms. X as they had exchanged calls on the mobile phone. This is a documented fact. It is not the case that he was part of the investigation team in the FIR which may have justified contact on phone, and therefore, he had poked his nose to his peril in the affairs of the main accused Ms. X. The statement of Ms. X recorded is enough to pin him down on the mat. The procedure adopted in the enquiry has not been faulted with. Merely because some of the 22 persons have been exonerated and against some of them visited with lesser punishments or they are still litigating before this Court against penalties inflicted involving the same episode is not sufficient reason not to

deal with the case of the petitioner independently and take a decision thereon. The police department is the best judge in the matter of awarding punishment and awards can be interfered with only when the quantum of punishment is grossly disproportionate to the misconduct or the decision-making process is arbitrary and fails to satisfy the Wednesbury principles of proportionality and reasonableness as no person would pass. None of the impugned orders passed in the present case against the order of punishment and the consequential orders passed in appeal and revision suffers from irrationality, perversity or abuse of authority and power to impose punishment. This Court does not sit in appeal over the order of punishment or interfere with discretion reasonably exercised unless it shocks the conscience of the court. It cannot be said that the enquiry held is neither fair nor proper or that the petitioner has been denied reasonable opportunity to defend himself thereby causing him grave and irreconcilable prejudice. He was granted opportunity to produce defence evidence and was not precluded from cross-examining the witnesses produced by the prosecution. I find no legal infirmity in the impugned orders. Consequently, I also find no cogent or valid ground to interfere with the impugned orders in exercise of discretionary jurisdiction under Article 226 of the Constitution.

In view of the above, I find no merit in this petition which is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

26.7.2016
MFK

Whether speaking/reasoned

✓
Yes/No

Whether Reportable

✓
Yes/No