

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

CWP No. 1902 of 2014

Date of decision : 11.03.2016

Mahabir Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. Ravi Pratap Singh, A.A.G. Haryana

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest? Yes

RITU BAHRI , J.

The present petition is for issuance of writ in the nature of certiorari quashing order dated 08.06.2010 (P-3) passed by S.P. Karnal whereby petitioner was awarded punishment of stoppage of five future annual increment with permanent effect and further prayer is to set aside orders dated 17.09.2010 (P-5) and 09.01.2012 (P-7) whereby appeal and revision filed against the above said order, has been rejected.

Petitioner was appointed as Constable on 11.11.1974 in

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Haryana Police and confirmed in the year 1997. Subsequently he passed B-1 Test in the year 1982 and was thus promoted as Head Constable in the year 1988.

He was promoted to the post of ASI in the year 1997 and further as SI in the year 2000. Subsequently, petitioner retired from service on attaining the age of superannuation on 31.12.2011. In the year 2009, petitioner was issued a charge sheet dated 18.12.2009 with the allegations that while posted as HO at P.S., Taraori, F.I.R No. 287 dated 18.11.2009 was registered under Sections 148/149/323/324/506 IPC on the statement of one Narinder Kumar and during the investigation, statement of Ishwar Singh of the cross case was conducted on 24.11.2009 and the case was investigated by A.S.I Dharampal, P.S. Taraori and the verification investigation was made by Addl.S.P. Karnal on 26.11.2009. But the petitioner being SHO had not made any verification of the concerned person and case diary was also not recorded. Whereas as per instruction issued by DGP/Law and letter dated 29.07.2009 and S.P Karnal letter dated 04.08.2009, cross case in heard matter required to be verified by the District S.P himself. Petitioner was found guilty of ignoring instructions of Senior Officers.

Petitioner submitted reply to the charge sheet and a regular departmental inquiry was conducted against him and the

Inquiry Officer proved the charge against the petitioner. Subsequently, petitioner was issued a show cause notice dated 13.05.2010 (P-1). Petitioner submitted its reply dated 26.05.2010 to the above show cause notice (P-2). Subsequently, petitioner was issued punishment order on 08.06.2010 by imposing punishment of stoppage of 05 future increment with permanent effect (P-3).

Petitioner preferred an appeal dated 27.07.2010 before the I.G. Rohtak, Range, Rohtak against order dated 08.06.2010, which was accepted on 17.09.2010 (P-5) and the punishment was reduced to stoppage of one future annual increment with permanent effect.

Subsequently, petitioner preferred a revision petition on 08.08.2011 before D.G.P Haryana against order dated 17.09.2010, which was dismissed on 09.01.2012 (P-7). Hence the present writ petition.

Learned counsel for the petitioner at the very outset has referred to evidence of P.W.4 HC Sumer Singh who stated that on the basis of record a case diary No. 3-4 dated 24.11.2009 regarding verification of investigation was recorded by me and stands duly entered in the Index of F.I.R relating to this case. In his cross examination, he has confirmed that the entries of various case diaries recorded in the index stand entered and there is no cutting or manipulation therein. He has affirmed that the entry of CDs are made

in the Index of relevant F.I.R the very day, these are diary No. 3-A was duly recorded by him on 24.11.2009 and entered in the Index the same day by MHC.

To the same effect is the statement given by ASI Dharam Singh P.W.5 who stated that the parties had been produced before him for verification of facts on 24.11.2009 and the parties were further produced by him before the Addl.S.P Karnal on 26.11.2009. Case Diary No. 4 was recorded by this Officer stands entered after 3-A recorded by him.

Learned counsel for the respondent on the other hand has argued that since the petitioner neither verified the investigation nor recorded the case diary, he was rightly punished by the authorities.

Heard learned counsel for the parties at length.

In the written statement filed by the respondents, it has been admitted that P.W.4 HC Sumer Singh had stated that on the basis of record, a case diary No. 3-4 dated 24.11.2009 regarding verification of investigation was recorded by him and stands duly entered in the Index of F.I.R relating to this case. Further it has been admitted that the petitioner was not required to do the verification, under the instructions issued by DGP, law and Order, Haryana, Panchkula vide letter dated 29.07.2009, which were repeated by S.P, Karnal vide memo

dated 04.09.2009.

Thus, the only allegations against the petitioner remained that the petitioner had not placed the CD on file and carbon copy of it was placed on the file later on 12.12.2009. Once the entries of various case diaries recorded in the index stand entered and there is no cutting or manipulation therein, the punishment of stoppage of one future annual increment with permanent effect should not have been passed against the petitioner. No negligence can be attributed to the petitioner, as he had duly recorded CD No. 3-A in the case. Further the case diaries received by him from the Investigating Officer were also entered in the Index on the same date when these were received. Moreover, if the petitioner had not done verification, it does not amount to harsh punishment.

For the reasons stated above, orders dated 08.06.2010 (P-2), 17.09.2010 (P-5) and 09.01.2012 (P-7) are set aside. Petitioner is entitled to all consequential benefits.

The writ petition is allowed accordingly.

11.03.2016

G Arora

(RITU BAHRI)
JUDGE