

Case No. : C. W. P.No. 25003 of 2015 (O&M)

C. Sultan Singh		Petitioner
vs.		
State of Haryana and others		Respondents

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Whether the judgment should be reported in the digest ?

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C. M. No. 3673 of 2016 :

CM stands disposed of.

Through the present petition, challenge is made to order dated 19.04.2012, through which, punishment of reversion has been imposed on the petitioner from the rank of the Head Constable to Constable, order dated

06.12.2012, through which the petitioner's appeal against the afore-referred order of dismissal has been dismissed by the Appellate Authority and to the order dated 09.11.2015, through which the petitioner's revision petition has also been dismissed.

A few facts may be noticed.

While the petitioner was serving the Haryana Police as a Head Constable, FIR No. 214 dated 28.06.2001 under Sections 223, 224 IPC was registered against him at Police Station Civil Lines, Karnal as an accused had escaped from his custody. While the trial was on, the petitioner was also subjected to a departmental inquiry, in which he was found guilty and resultantly, through order dated 28.08.2002, was ordered to be reverted from the rank of Head Constable to Constable. The order of reversion was challenged by the petitioner by way of a Civil Suit, which was decreed on 31.03.2011 and as per which, the reversion of the petitioner was set aside primarily on the ground that the petitioner had been subjected to a departmental inquiry without concurrence of the concerned District Magistrate, and therefore, for this reason, though the Civil Court set aside the impugned reversion order, it gave liberty to the respondents to conduct a fresh inquiry against the petitioner but only after obtaining necessary permission from the concerned District Magistrate. As per liberty granted, the respondents, after obtaining permission from District Magistrate, Karnal, conducted a fresh inquiry against the petitioner, in which he was again found guilty and on the strength thereof, through the impugned order dated 19.04.2012, he was imposed the punishment of reversion from the

rank of Head Constable to Constable. His appeal and revision against the order of punishment was also dismissed. It is in these circumstances, that the present petition has been filed for the reliefs, as referred to above.

Learned counsel for the petitioner submits that the petitioner has been punished on account of the escape of an accused from his custody. For the same offence, the petitioner was also subjected to a criminal trial, in which he had been acquitted, and therefore, there was no reason in fact or in law to impose the punishment of reversion upon him. He further submits that on the same cause of action, the petitioner had filed a Civil Suit, which was decreed, and therefore, the impugned punishment order and the orders passed in appeal and revision virtually violate the order of the Civil Court. On the aforesaid pleas, the impugned orders are sought to be quashed.

It is true that for the same cause of action, the petitioner was also subjected to a criminal trial and was acquitted, but a perusal of the order of the trial court, acquitting the petitioner, clearly shows that the petitioner's acquittal had come on the ground that all the prosecution witnesses had turned hostile. In contra-distinction, in the departmental inquiry against the petitioner, the charge levied against him was fully proved.

So far as the Civil Court decree is concerned, through an earlier order dated 28.08.2002, as a result of having been found guilty in a departmental inquiry, the petitioner had been imposed the punishment of reversion. He had challenged the reversion order through a Civil Suit,

which was decreed through order dated 31.03.2011 as under :-

“The suit of the plaintiff is decreed in the following terms with costs for a declaration that the orders dated 28.08.02, 08.11.02, 17.04.03 passed by the defendants were illegal, ultra vires and against the principle of natural justice and also against the Punjab Police Rules and are hereby set aside. However, a lapse indeed had occurred at the hands of the plaintiff, therefore, the defendants are at liberty to conduct a fresh inquiry after obtaining the permission from the District Magistrate regarding the same. In case, requisite permission is granted, the inquiry be concluded within a period of six months from the date of the said permission.”

A perusal of the afore-quoted operative part of the judgment passed in the Civil Suit clearly shows that the same had been decreed on a technical lapse on the part of the respondents as they had failed to obtain permission from the concerned District Magistrate before conducting inquiry against the petitioner. Since the Civil Suit was decreed as a result of such technical lapse, the Civil Court had granted liberty to the respondents to conduct a fresh inquiry against the petitioner after obtaining permission from the concerned District Magistrate. As per the liberty granted and after obtaining necessary concurrence of the concerned District Magistrate, the petitioner was subjected to a fresh inquiry, in which he was again found guilty and it is on the basis of such guilt that the petitioner has been punished through the orders impugned before me. Thus, the benefit, that the petitioner seeks to derive from the Civil Court decree, is not available to

him.

The petitioner, being a member of the disciplined force, was entrusted with the custody of an accused and in the departmental inquiry, which forms the basis of his punishment, he was found to have taken the accused to a Cinema Hall in Karnal and while he kept him there, had sent another Constable to extort money from his relative. Taking advantage of the negligence and greed of the petitioner, the accused had escaped from custody. For the afore-referred proven negligence, the petitioner has rightly been punished, though in my view, rather leniently.

In view of the above, finding no merit in the writ petition, the same is hereby ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

April 05, 2016
monika