

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

CWP No. 25094 of 2015
Date of decision: 18.01.2016

Dharam Pal

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. O.S. Batalvi, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 31.03.2014 (Annexure P-8) whereby, he was awarded the punishment of censure for cheating done by him during the paper of Forensic Science subject on 25.07.2013. Further, challenge has also been laid to the order dated 29.10.2014 (Annexure P-11) passed by respondent no. 4 vide which, the punishment was enhanced to 2 years of forfeiture of approved service with permanent effect. The said order has been further upheld in appeal on 27.02.2015 (Annexure P-14) by the Inspector General of Police. Similarly, on that basis, the petitioner's case for promotion was rejected on 10.12.2014 (Annexure P-13) which has also been upheld vide order dated 05.10.2015 (Annexure P-16).

A perusal of the paper book would go on to show that the petitioner was doing the Lower School course and had sat in the examination on 25.07.2013 and had gone to the toilet and thereafter, opened some paper, which was snatched by the invigilator. On the basis of the

same, the matter was inquired into and on inquiry, the Deputy Superintendent of Police (Rural), came to the conclusion that the reading material had been recovered from the petitioner during the said examination and the charge was held to be proved against him. The findings recorded are as under:-

“During this paper, reading material was recovered from him. Charge regarding recovery of reading material from PHC Dharam Pal 172/Pathankot during paper of subject Forensic Science on 25.07.2013 is proved against him and paper of subject Forensic Science was cancelled on 25.07.2013. On taking this paper again on 05.08.2013, PHC Dharam Pal 172/Pathankot has been declared as 'Pass' in the result declared by Punjab Police Academy, Phillaur. Therefore, keeping in view the promotion and future of PHC Dharam Pal 172/Pathankot, it is hereby recommended to consider the charge leveled against him softly and charges leveled framed against him are proved herewith.”

Accordingly, show cause notice dated 08.02.2014 (Annexure P-6) was issued as to why two years' of approved service should not be forfeited with permanent effect.

The same was replied to by the petitioner and the plea taken was that the charge was false and his case be considered softly. The Senior Superintendent of Police accepted the said plea and only imposed a punishment of censure on 31.03.2014. The same was not approved by respondent no. 4, who issued show cause notice on 25.08.2014 as to why the punishment which had been proposed should not be imposed. The same was replied to by the petitioner and eventually, the impugned order dated

29.10.2014 (Annexure P-11) was passed under Rule 16.28 Punjab Police Rules, 1934, which give the power to review to the said respondent. On account of the said punishment, he was ignored for promotion as Head Constable on 10.12.2014. The Inspector General of Police upheld the order in appeal imposing the forfeiture of two years service vide order dated 27.02.2015. Similarly, vide order dated 05.10.2015, the denial of promotion was also upheld. Resultantly, the present writ petition has been filed.

From the perusal of the facts, it would be clear that after proper inquiry, the punishment was imposed. The departmental authorities came to the conclusion that the petitioner had, in his custody, some incriminating material on the basis of which, the punishment has been imposed after following proper procedure. Nothing could be shown that the principles of natural justice had been violated or that the prescribed procedure has not been followed or there is an illegality which is apparent on the record. It is settled principle that this Court is not sitting as a Court of Appeal and is only to see whether the departmental proceedings have been conducted in a proper manner without causing any prejudice to the petitioner.

The Apex Court in '*Kumaon Mandal Vikas Nigam Ltd. Vs. Girja Shankar Pant*' 2001 (1) SCC 182 while examining the issue of disciplinary action taken on the departmental side held that examining the adequacy and inadequacy of evidence is not permitted and only if there is a finding that shocks the judicial conscience of the Court, the Court would interfere. The principles of natural justice having been complied with and the procedure prescribed having been followed, the Court should not interfere in the punishment imposed.

Similarly in '*Registrar General, Patna High Court Vs. Pandey*

Gajendra Prasad and others' Vs. 2012 (5) SCR 994, the scope of departmental proceedings was discussed and it was held as under:-

“12. It is trite that the scope of judicial review, under Article 226 of the Constitution, of an order of punishment passed in departmental proceedings, is extremely limited. While exercising such jurisdiction, interference with the decision of the departmental authorities is permitted, if such authority has held the proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by consideration extraneous to the evidence on the merits of the case, or if the conclusion reached by the authority, on the face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. (See: Shashikant S. Patil & Anr. (supra)).”

Similarly, the Apex Court in '**West Bengal State Electricity Board and others Vs. Hari Bhakta Ghosh' 2015 (1) RSJ 745** has held that the strict rules of evidence are not required to be followed by the Enquiry Officer and the High Court cannot substitute the findings of the Enquiry Officer by way of its subjective opinion.

In such circumstances, there is no scope for interference in the orders passed by the authorities below and the present writ petition is dismissed in limine.

18.01.2016
shivani

(G.S. SANDHAWALIA)
JUDGE