

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO. 8213 OF 2016

DATE OF DECISION: AUGUST 23, 2016

Constable Chander Pal Singh No.377/HSRPetitioner

Versus

State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.SK Dhanda, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

The petitioner, who is serving as a Constable under the Haryana Police, was inflicted the punishment of stoppage of ten future annual increments with permanent effect vide order dated 29.12.2005 passed by the Superintendent of Police, Hisar. The appeal preferred by the petitioner was partly accepted and in terms of order dated 14.2.2006 passed by the Inspector General of Police, Hisar Range, Hisar, the punishment was modified to stoppage of five increments with permanent effect. Petitioner having preferred a revision petition, an order dated 25.8.2006 has been passed by the Director General of Police, Haryana and in terms of which the punishment has been further reduced to stoppage of four increments with permanent effect.

2. The instant petition is directed against order dated 25.8.2006 passed by the Director General of Police, Haryana and appended as Annexure P4.

3. Briefly noticed, departmental proceedings were initiated against the petitioner in the year 2005 on the following article of charge:

"You, the constable Chanderpal No.377/Hisar while posted in Police Post Surya Nagar on 01.07.05 and being the member of the discipline force, consumed liquor and misbehaved/abused your senior officer HC Mahabir Singh No.905/Hisar and committed gross negligence and indiscipline."

4. The Deputy Superintendent of Police, Hisar having been appointed as Enquiry Officer, report dated 18.11.2005 was furnished holding the petitioner to have misbehaved, abused and insulted his senior officer i.e. the Acting In-charge of the Police Post. Based upon such enquiry findings, a show cause notice dated 5.12.2005 was served upon the petitioner contemplating the imposition of major punishment of dismissal from service. Upon consideration of the response filed by the petitioner to the show cause notice and having been afforded an opportunity of personal hearing, the Disciplinary Authority i.e. the Superintendent of Police, Hisar passed an order dated 29.12.2005, Annexure P2, imposing punishment of stoppage of ten future annual increments with permanent effect. Such punishment was whittled down to stoppage of five increments with permanent effect by the Appellate Authority and still further,

to stoppage of four annual increments with permanent effect by the Revisional Authority.

5. Learned counsel appearing for the petitioner has argued that the punishment has been imposed without proper appreciation and consideration of evidence led before the Enquiry Officer. It is contended that the prosecution witnesses had not supported the allegation against the petitioner as regards consumption and being under the influence of liquor. In furtherance of such submission, it is submitted that the complainant i.e. Head Constable Mahabir Singh had appeared before the Enquiry Officer as PW3 and had stated in his cross-examination that even prior to the date of occurrence, he has served along with the delinquent in Police Lines, Hisar and had never seen him consuming liquor or misbehaving with any other official. A submission as regards quantum of punishment has also been raised stating that the petitioner had been enrolled in Haryana Police in the year 1991 and had an unblemished record of service and final order passed by the Director General of Police imposing punishment of stoppage of four annual increments with cumulative effect is too harsh.

6. Learned counsel for the petitioner has been heard at length and the pleadings on record have been perused.

7. In *B.C.Chaturvedi v. Union of India, 1996(1) SCT 617*, it was authoritatively laid down that judicial review is not an appeal from a decision but a review of the manner in which the decision is made. The power of judicial review would be exercised to ensure that the delinquent receives fair treatment but not to

ensure that the conclusion which the competent authority reaches is necessarily correct in the eyes of the Court.

8. In the facts of the present case, the charge against the petitioner was two-fold i.e. having consumed liquor on duty and having misbehaved/abused with his senior officer Head Constable Mahabir Singh who was In-charge of the Police Post on the date of the occurrence i.e. 1.7.2005. The Enquiry Officer returned findings by furnishing an enquiry report dated 18.11.2005 holding that in the absence of medical evidence, it has not been proved that the petitioner had consumed alcohol/liquor but has found him guilty on the charge of misbehaviour and having abused his senior. This Court has perused the enquiry report dated 18.11.2005 placed on record and appended as Annexure P5. The statements recorded of the prosecution witnesses by the Enquiry Officer have also been perused. Prosecution witness No.4, Constable Subhash and prosecution witness No.5, Constable Jagdish have certainly deposed as regards an argument having taken place between the delinquent/present petitioner and Head Constable Mahabir Singh and there being exchange of hot words between them in loud voice within the Police Post. Complainant Mahabir Singh has appeared as prosecution witness No.3 and reiterated his complaint as regards Constable Chander Pal/petitioner having misbehaved and insulted him under the influence of liquor. Prosecution witness No.6, ASI Dharam Singh has deposed that after Head Constable Mahabir Singh had submitted a written complaint, he had taken the petitioner to Civil Hospital for medical examination, but from there he had fled

away. In the absence of medical evidence, the Enquiry Officer had not held the petitioner guilty of the charge of consumption of alcohol. The finding recorded is of having abused, misbehaved and of having insulted his senior. It is not a case where this Court can conclude that such finding is without evidence.

9. There is no allegation of procedural irregularities or illegality or violation of statutory rules prescribing the mode of enquiry. It would not be open for this Court to enter the arena of re-appreciation and re-appraisal of the evidence and to sit in appeal over the findings recorded by the Enquiry Officer and assume the role of the Appellate Authority.

10. Even as regards quantum of punishment, the principles governing interference in the same are well-settled. It has been held in a catena of judgments rendered by the Apex Court that the High Court while exercising powers of judicial review cannot substitute its own conclusion of penalty and impose some other penalty. It is only if the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the Court, then it would be appropriate to mould the relief either by directing the Disciplinary/Appellate Authority to re-consider the punishment imposed or to shorten the litigation and in exceptional and rare cases to pass an order imposing appropriate punishment in the light of cogent reasons being assigned.

11. The petitioner herein is a member of a disciplined Force. In pursuance to a regular departmental enquiry conducted after following due procedure and in consonance with the rules of natural justice has held him guilty of in-subordination i.e. having

insulted, abused and having misbehaved with his senior officer. Under such circumstances, there would be no scope for interference and to take a different view as regards the punishment that had been imposed upon the petitioner by the Director General of Police, Haryana vide impugned order dated 25.8.2006, Annexure P4.

12. For the reasons recorded above, the writ petition is dismissed.

AUGUST 23, 2016
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether speaking/reasoned? Yes/No
Whether referred to Reporter? Yes/No