

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1661 of 2011

Date of Decision:- 02.08.2016.

Kabal Singh

.....Appellant

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. I.D. Singla, Advocate for the appellant.

Mr. Ajay Kumar Gupta, Senior Panel Counsel for
UOI-respondents.

P.B. BAJANTHRI, J. (Oral)

1.) Appellant in the present case has questioned both Trial Court as well as Appellate Court orders dated 18.2.2009 and 16.11.2010. The appellant while serving in 91st Battalion in BSF he was charge-sheeted for consuming liquor. The appellant pleaded guilty before Summary Security Force Court (for short 'SSFC') on 23.8.2002. In view of his admission before the SSFC and imposition of penalty of dismissal from service on 23.8.2002, the appellant approached Trial Court in which dismissal order was upheld. Still aggrieved he approached Appellate Court. Appellate Court also upheld the order of dismissal dated 23.8.2002. Hence, the present appeal.

2.) Learned counsel for the appellant restricted his argument only to the extent that the penalty of dismissal from service for consuming alcohol while not on duty hours would be too harsh and it is disproportionate.

3.) Learned counsel for the respondents submitted that BSF is a disciplined Force. Persons who are working in BSF should maintain discipline. Whereas, the appellant was in drunken state and who was before the BSF Gate

No.1 in the night of 7.7.2002. It was further submitted that persons who are

working in disciplined force should maintain discipline not only in office premises but even in public place also. Therefore, imposition of penalty of dismissal from service is in order. Concurrent finding by the Trial Court as well as Appellate Court, therefore, the appellant has not made out a case so as to interfere with the order of the Trial Court as well as Appellate Court read with order of dismissal.

4.) The respondents are directed to re-consider the penalty of dismissal from service to that of compulsory retirement having regard to the fact that appellant has rendered service from 22.3.1991 to 23.8.2002. No doubt, charge against the appellant that he was under intoxication and found near the BSF gate is a serious charge since he was not on duty. Therefore, the matter is remanded to the disciplinary authority to re-consider the penalty of dismissal to that of compulsory retirement within a period of three months. If the disciplinary authority modifies penalty of dismissal to that of compulsory retirement in view of the present order, it is made clear that the appellant is not entitled for any monetary benefits from 2002 to till passing of the compulsory retirement order. The orders passed by the Trial Court and Appellate Court would not come in the way of taking decision by the disciplinary authority.

5.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 2, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes

Whether Reportable:-

No