

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1439-2015 (O&M)

Date of Decision: September 06, 2016

Ex.ASI Ravinder Kumar

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr.Shubham Kaushik, Advocate for
Mr.Vinod S.Bhardwaj, Advocate
for the appellant.

Mr.R.D.Sharma, DAG, Haryana.

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SURYA KANT, J.

[1] This Letters Patent Appeal challenges the order dated 03.08.2015 whereby appellant's writ petition in which he assailed the order of his dismissal from service, has been dismissed by learned Single Judge.

[2] Appellant joined the Haryana Police as a Constable in the year 1983. He was promoted in due course of time firstly as a Head Constable and then as Assistant Sub Inspector.

[3] The appellant was posted in Police Station Bapoli, District Panipat at the relevant time when one of the most atrocious and heinous offence of 'Honour Killing' was committed on 23.09.2013 within the jurisdiction of that police station, in which one innocent girl was killed as she got married with a boy outside her caste. The role of the appellant as an Investigating Officer was found to be dubious and he was suspected to have

colluded with the perpetrators of crime. He was also thus named as a co-accused and put on trial with other accused.

[4] Meanwhile, disciplinary action was also initiated against the appellant on the same set of allegations but the domestic enquiry was dispensed with and powers under proviso to Article 311(2)(b) of the Constitution were invoked and the appellant was dismissed from service.

[5] In the criminal case the appellant has been acquitted as the prosecution witnesses turned hostile.

[6] In this backdrop the appellant questioned his dismissal from service but the learned Single Judge has turned down his claim.

[7] When this appeal came up for hearing on 09.05.2016, it was urged on behalf of appellant that the allegation of his collusion or connivance with the accused have not been proved in any manner, for (i) in the criminal case he stands acquitted; and (ii) no departmental enquiry was held as the order of dismissal was passed by dispensing with such enquiry. Taking into consideration the totality of the circumstances, that this Court, prima facie, viewed that the punishment of dismissal from service awarded to the appellant may require reconsideration at the hands of the Competent Authority who was directed to reconsider the whole issue as to whether any lesser punishment can be awarded in the interest of justice.

[8] In deference thereto, the Director General of Police, Haryana on reconsideration of the matter has set aside the order of dismissal and reinstated the appellant in service but subject to the disciplinary action to be taken against him by the Competent Authority by way of a regular departmental enquiry. For the absence period, the Competent Authority has

invoked the principle of 'No Work No Pay' and hence the consequential arrears of pay have not been paid to the appellant.

[9] We have heard learned counsel for the parties and are satisfied with the fairness of the action taken by the authorities.

[10] As of now the appellant cannot be held entitled to any consequential benefits for the reason that regular departmental enquiry is yet to take place. Since dismissal from service was apparently disproportionate for want of any categorical finding of fact against the appellant, his reinstatement in service at this stage without prejudice to the departmental enquiry, appears to be the proper recourse adopted by the Competent Authority.

[11] We, thus allow this appeal to the extent that the order passed by the learned Single Judge is set aside. The appellant stands re-instated in service subject to the outcome of regular departmental enquiry. The fate of the period during which the appellant remained out of service will be independently decided by the Competent Authority after conclusion of the regular enquiry.

[12] Disposed of.

**(SURYA KANT)
JUDGE**

September 06, 2016
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**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No