

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.810 of 2016 (O&M)
Date of Decision: May 13, 2016

Sukhdev Kumar

.....Appellant

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.

Present: Mr.Sunil K. Nehra, Advocate, for the appellant.

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

The appellant is aggrieved by the order dated 04.03.2016 whereby the learned Single Judge has dismissed his writ petition in which he laid challenge to the order of punishment of stoppage of two annual increments with cumulative effect as well as the orders dismissing his appeal, revision petition and second revision petition.

[2] Regardless of the fact that the learned Single Judge has dismissed the writ petition primarily on account of delay, we have heard learned counsel for the appellant on merits and are satisfied that no case to interfere with the impugned orders is made out. We say so in the light of the following facts and circumstances.

[3] The appellant is a retired Sub Inspector of Haryana Police. While he was working as Assistant Sub Inspector, disciplinary action was initiated alleging that he deliberately did not prepare and submit the challan in case FIR No.47 dated 25.03.2002 registered at Police Station Pinjore under Section 160 IPC. The appellant denied the allegations; regular enquiry was held and the Inquiry Officer found him guilty of the misconduct. The Disciplinary Authority agreed with the conclusion drawn by the Inquiry Officer and after issuing a show-cause notice, imposed the punishment of stoppage of two annual increments with cumulative effect on the appellant.

[4] The departmental appeal filed under the Rules was also turned down by the Inspector General of Police, Ambala Range, Ambala, vide self-speaking order dated 10.12.2008 (P-10). The appellant then preferred revision petition under Rule 16.32 of the Punjab Police Rules, 1934 (for short, 'the 1934 Rules') as applicable to the State of Haryana which too was rejected by the Director General of Police, Haryana vide order dated 15.09.2009 (P-12).

[5] The revisional order unequivocally reveals that the Revisional Authority looked into the nature of charges levelled against the appellant; went through the findings returned by the Inquiry Officer as also examined the nature of punishment

awarded by the Competent Authority. Thereafter only, the Revisional Authority dismissed the revision petition observing that there are no mitigating circumstances warranting interference with the order passed by the Inspector General of Police.

[6] The appellant filed yet another revision petition under the same Rule 16.32 of the 1934 Rules (ibid) before the Financial Commissioner and Secretary, Home Department, Haryana, statedly on 05.11.2009 which appears to have been returned undecided on the erroneous premise that such a revision petition could be entertained against the order of the Director General of Police, Haryana only and no revision petition can be directly submitted.

[7] The aggrieved appellant approached this Court and the learned Single Judge has dismissed the writ petition observing that the appellant was guilty of delay as he approached the High Court after a gap of almost one year after his revision petition was returned on 02.09.2014.

[8] The appellant's main grievance is that he was not heard on merits either by the Financial Commissioner and Secretary to Home Department, Haryana or by the learned Single Judge.

[9] Assuming any merit in the contention, it has lost its force as we have independently gone through the entire material on record and heard the appellant's learned counsel.

[10] The appellant was found guilty of not preparing and submitting the challan deliberately. The inference drawn by the authorities is that he colluded with the accused, otherwsie there could be no other reason for not submitting

the challan in time.

[11] In the light of the nature of misconduct proved against the appellant, the punishment of stoppage of two annual increments with cumulative effect, even if it has any impact on the future career of the appellant, can not be termed disproportionate to the nature of charges established against him.

[12] As regard to the appellant's second revision petition before the State Government, we have gone through Rule 16.32 of the 1934 Rules, which reads as follows:-

“...16.32. Revision- An officer whose appeal has been rejected is prohibited from applying for a fresh scrutiny of the evidence. Such officer, may, however, apply within a month of the date of the despatch of appellate orders to him, to the authority next above the prescribed appellate authority for revision on the grounds of material irregularity in the proceedings or on production of fresh evidence. Such application must be in English.....”

[13] There is no gain saying that only one revision petition before the Authority who is higher than the Appellate Authority is maintainable. In the instant case, the appeal was decided by the Inspector General of Police, Ambala Range and against that order the revision petition was maintainable before the Director General of Police, Haryana. The appellant did avail such remedy though unsuccessfully. The appellant thus misdirected himself in submitting second revision petition which is not maintainable under the Rules or under any other provision of the Statute or Instructions.

[14] In these circumstances, the appellant has to blame himself for the delay caused in approaching the High Court.

[16] No case to interfere with the impugned orders is made out.

[17] Dismissed.

[SURYA KANT]
JUDGE

May 13, 2016
mohinder

[A.B.CHAUDHARI]
JUDGE

CM No.1648 of 2016 in
LPA No.810 of 2016

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Sukhdev Kumar versus State of Haryana and others

Present : Mr.Sunil K. Nehra, Advocate,
for the applicant-appellant.

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Since we have decided the main appeal on merits,
no separate order is required to be passed on this application
for condonation of 36 days' delay in filing the appeal.

(SURYA KANT)
JUDGE

May 13, 2016
mohinder

(A.B.CHAUDHARI)
JUDGE