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

CWP No.1649 of 2013

Date of Decision : 17.04.2017

Hira Lal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Ravi Partap Singh, A.A.G., Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the charge-sheet dated 05.12.2011 (Annexure P-3), enquiry report dated 04.01.2012 (Annexure P-4), order dated 09.02.2012 (Annexure P-7) imposing the punishment of stoppage of two future annual increments with permanent effect and the orders passed in appeal and revision (Annexures P-9 & P-11 respectively) thereby the said order has been upheld.

Brief facts of the case are that the Truck bearing No.HR-64E-0769 met with an accident on 27.04.2011 and was taken into possession in connection with investigation of the case in FIR No.56 dated 27.04.2011 registered under Sections 279/337 IPC, at P.S. Sadar Jind. On 30.04.2011 the owner of the truck Gurmail Singh had produced the Court orders at Police Station Julana to release the truck on superdari but the petitioner

allegedly demanded illegal gratification and did not release the truck and ultimately the truck was handed over to the owner only on 02.05.2011. The reason trotted out by the petitioner for not honouring the superdari order was that the mechanical examination of the truck had not been conducted since no mechanic was available.

I asked the learned counsel for the petitioner as to what was the authority of the petitioner to refuse to honour the order of superdari passed by a competent Court only on the ground that the mechanical inspection of the vehicle had not been conducted. Learned counsel is not in a position to point out any provision of law whereby an investigating officer can ignore an order of superdari on such a ground. Once that is so, it has to be held that the truck was unauthorizedly detained by the petitioner for a period of two days. The argument of the learned counsel for the petitioner is that in fact the inquiry itself was vitiated as the statement of the complainant was recorded even before the issuance of charge-sheet and the petitioner was not allowed proper opportunity to cross-examine the complainant. However, it has been admitted that the complainant was called to the chamber of an advocate in Kaithal and the petitioner was allowed to cross-examine him. In these circumstances, the bare assertion made in the grounds of appeal as well as in the present writ petition that the petitioner was not allowed to 'properly cross-examine the complainant' is neither here nor there. Moreover, once it has not been shown as to what was the provision of law under which the petitioner could refuse to release a vehicle even in the face of an order of the competent court releasing it on superdari the infraction cannot be denied.

case the punishment imposed is rather strict.

The parameter for judicial interference in matters of punishment was laid down in the case of **Union of India and another vs S.S. Ahluwalia, 2007(7) SCC 257**, wherein it has been held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

In the present case, I find no error in the proceedings in view of the undisputed facts brought out above. Keeping in view the nature of allegations, I am convinced that the punishment imposed cannot be termed to be so disproportionate to the charges levelled against the petitioner as to shock the conscience of the Court.

Consequently, the petition is dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

April 17, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No