

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

CWP No.16677 of 2015 (O&M)

Date of decision : April 25, 2017

Pargat Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Gurmeet Singh, Advocate for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner, was working as Driver with the Punjab Roadways, Amritsar. On 09.04.2007, while he was driving a bus bearing registration No.PB-02-AB-8748 on a route from Chandigarh to Amritsar, according to him, while negotiating a truck coming from the opposite side, which was on the right side of the road, he applied brakes, upon which the motorcyclist, who was coming behind the bus also applied brakes and lost his control due to which, the pillion rider Meena Kumari received injuries and later on, succumbed to the injuries.

In the motor accident claim case filed by the legal heirs of deceased Meena Kumari, a compensation of ₹4,54,130/- was awarded. On 07.10.2011, the petitioner was charge-sheeted by the Department. The Inquiry Officer vide inquiry report dated 07.10.2011 (Annexure P-1/T) exonerated the petitioner. In the criminal case, the petitioner was acquitted by the learned Judicial Magistrate 1st Class, Jalandhar vide judgment dated

28.01.2014 (Annexure P-2). However, respondent No.2 issued disagreement

note dated 14.07.2014 to the inquiry report dated 07.10.2011 (Annexure P-1) to the petitioner. While disagreeing with the reply of the petitioner to the disagreement note 14.07.2014, a show cause notice dated 21.10.2014 (Annexure P-5/T) was issued to the petitioner. After going through the replies submitted by the petitioner, respondent No.2 passed the impugned order dated 04.02.2015 endorsed on 18.02.2015 (Annexure P-8/T), whereby a cut of ½ % in the pension of the petitioner was imposed under Rule 2.2(b) of the Punjab Civil Services Rules, Vol.II. The petitioner has retired from service in the year 2009.

In the reply, the respondents have taken the stand that the cut of ½ % in the pension of the petitioner was rightly imposed after considering the facts and circumstances and after disagreeing with the inquiry report dated 07.10.2011 (Annexure P-1).

I have heard learned counsel for the parties and have also carefully gone through the case file.

Unluckily, the petitioner had not produced the disagreement note dated 14.07.2014, vide which the competent authority disagreed with the inquiry report dated 07.10.2011 (Annexure P-1).

Admittedly, the petitioner was exonerated in the departmental inquiry. However, the competent authority is always competent to disagree with the inquiry report. After disagreeing with the inquiry report, disagreement note was sent to the petitioner and thereafter after receiving the reply of the petitioner, the impugned order was passed. In this way, proper procedure was followed. In the motor accident claim case, the Department had to pay compensation to the legal heirs of the deceased.

The principles followed in deciding a criminal case and concluding the

departmental inquiry are entirely different. The Department could always hold that there was complete or part negligence on the part of the petitioner. Therefore, after considering all the circumstances, only ½ % cut in the pension of the petitioner was imposed. Thus, there is no illegality or infirmity in the impugned order nor any procedure is violated.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

April 25, 2017

sarita

Whether speaking / reasoned	Yes
Whether Reportable:	No