

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

Date of decision:23.01.2017

Ex.Constable Mukhtiar Singh

.....Petitioner

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Onkar Rai,Advocate for the petitioner.

Jaswant Singh,J(Oral)

Petitioner is an Ex-Constable who has been dismissed from Indian Reserve Battalion,Punjab for having been found under the influence of liquor during surprise checking on 21.10.2006 at about 11.35 a.m. He is seeking quashing of enquiry report dated 19.2.2007(P-2) punishment order dated 26.4.2007(P-3) dismissing him from service; order dated 12.7.2007(P-5) whereby his appeal against punishment order was dismissed; order dated 4.3.2008(P-6) dismissing his revision against the appellate order; order dated 5.8.2008 (P-8) dismissing his mercy petition being not maintainable as also the order dated 30.5.2013(P-10) passed by DGP Punjab dismissing his appeal.

As noticed above, petitioner is an Ex-Constable of Indian Reserve Battalion. He was posted as Security Guard at State Bank of Patiala, Main Branch,Sangrur. On 21.10.2006 at about 11.35 a.m., during surprise checking made by Mahinder Singh Teji, Assistant Commandant 6th IRB, petitioner was found under the influence of liquor. He was got medically examined and it was found that he was drunk. Thereafter, a

dated 19.2.2007(P-2) had come to a conclusion that petitioner while posted at important bank security duty and being a member of disciplined force had consumed liquor which was totally against the rules which was clear cut evidence of disobedience and thus punishable being highly offensive. The punishing authority after receipt of enquiry report issued a show cause notice dated 24.3.2007 to the petitioner regarding proposed punishment of dismissal from service. Petitioner neither appeared before the Punishing authority nor submitted any written explanation within the stipulated period of ten days. He was afforded yet another opportunity vide letter dated 9.4.2007 to appear in person and submit his clarification, but petitioner again failed either to appear in person or submit any written explanation. Thereafter, the punishing authority after perusing the enquiry report and in view of his past service record, passed the impugned punishment order dated 26.4.2007(P-3) dismissing the petitioner from service. In the punishment order, it was noticed that petitioner joined on 9.5.1994 and took numerous punishments out of which his twelve years service had been forfeited permanently, 447 days in the NDP and 31 days of drilled punishments were important ones. It was further noticed that petitioner was incorrigible. The statutory appeal/revisions preferred by the petitioner were dismissed, hence present petition.

Heard learned counsel for the petitioner.

At the time of hearing, the sole contention of the learned counsel for the petitioner is that at the time of checking petitioner was not on active duty as his duty was over by 9 a.m., and the surprise checking was conducted at 11.35 a.m. It is further submitted that an application under the Right to information Act was moved to supply duty roster for that

day, but his application has been rejected and requisite information not supplied to him. On this ground alone the enquiry report, punishment order and orders dismissing his appeal/revision, are being sought to be quashed.

From the enquiry report, it is established that petitioner was found drunk in the morning of 21.10.2006 at 11.35 a.m to the extent that he was not able to walk properly or to pick up bullets lying on the floor. His blood and urine samples were taken by the Doctor on the basis of which it was found that he was drunk. In his defence while admitting his mistake, petitioner took the only plea that he took some liquor due to Diwali festival and as such he be forgiven.

It is well settled that in disciplinary proceedings scope of interference by Courts is extremely limited. In the present case neither the findings of the Enquiry Officer can be held to be perverse based, on no material, or the punishment awarded to him can be held to be disproportionate to the misconduct on the part of the petitioner. He, being a member of the disciplined force was assigned the important duty of guarding Main Branch of State Bank of Patiala, Sangrur. In the morning of 21.10.2006 at about 11.35 a.m., he admittedly was drunk to such an extent that he could neither walk properly nor pick up bullets from the floor. That apart, it was noticed in the punishment order dated 26.4.2007 (P-3) that petitioner joined on 9.5.1994 and took numerous punishments out of which his twelve years service had been forfeited permanently, 447 days in the NDP and 31 days of drilled punishments were important ones. As already noticed above, the punishing authority in the impugned punishment order has observed that petitioner, keeping in view his past service record is incorrigible.

For the reasons stated above, in my considered opinion, no case for interference is made out. Accordingly, finding no merit in this writ petition the same is hereby dismissed.

23.01.2017

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(Jaswant Singh)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable:	Yes/No