

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22873 of 2015
Date of Decision:-21.03.2017.

Ranjeet Singh ASI

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Dr. S.K. Redhu, Advocate for the petitioner.

Mr. Sushil Gautam, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

The petitioner while working as Assistant Sub-Inspector, he was subjected to disciplinary proceedings. On 22.1.2014, the disciplinary authority imposed the penalty of stoppage of 3 future annual increments with permanent effect. The disciplinary authority while imposing the above penalty passed the following order:-

“After examining the finding, enquiry file and all other record relevant to the enquiry, I have come to the conclusion that the charge of negligence and irresponsible attitude leveled against him is proved beyond any shadow of doubt. None of the prosecution witness have supported their version during regular enquiry and so giving benefit of doubt to the delinquent a lesser punishment of stoppage of three future annual increments is imposed upon the delinquent ASI Ranjeet

Singh No.57/MWT with permanent effect.

Order be booked accordingly and a copy will be delivered to the delinquent free of cost by OSI.”

The petitioner feeling aggrieved by the order of disciplinary authority preferred an appeal before the Commissioner of Police-appellate authority. Vide Annexure P-6, the same was considered and disposed of by the Appellate Authority vide Annexure P-7 on 28.2.2014. While making the brief statement, the appellate authority passed the following order:-

I have carefully examined the appeal preferred by the appellant, departmental enquiry file and other relevant record. The appellant was heard in person on 28.2.2014 and during the personal hearing he was unable to put forth any justifiable contention to disprove the charges already proved against him on the basis of regular departmental enquiry. The punishment awarded to the appellant is reasonable, justified and commensurate with the misconduct on the part of appellant.

In view of the above, I do not find any reason to interfere with the order passed by the punishing authority and, therefore, reject the appeal of ASI Ranjeet Singh No.57/MWT being devoid of any merit.

A copy of this order be supplied to the appellant free of cost.”

The petitioner aggrieved by the order of appellate authority dated 28.2.2014 (Annexure P-7) preferred a revision petition. The revisional authority rejected the same vide order dated 13.8.2014 (Annexure P-9) while holding as under:-

“I have examined the revision petition, departmental enquiry file, the orders passed by the

authorities below and all relevant record. The departmental enquiry has been conducted in accordance with rules and procedure and there is no legal infirmity in it. In his petition, the revisionist has averred that the order passed by the Appellate Authority is based on conjectures and surmises and there is not even an iota of evidence to prove the charges against him. The revisionist has further contended that the charges levelled against him are not sustainable as he had handed over the case file to MHC before proceeding on earned leave. He has further prayed that revision petition may be accepted and he may be exonerated from the charges levelled against him. During personal hearing on 28.5.2014, the revisionist pleaded that he had been wrongly held guilty in the departmental enquiry and stated that he had handed over the case file of case FIR No.288 dated 09.7.2012 u/s 376(2)(g), 342 IPC, Police Station Punhana to MHC before proceeding on earned leave and requested that impugned punishment may be quashed.”

Learned counsel for the petitioner submitted that even though, the disciplinary authority has come to the conclusion that there is no evidence in support of the charge and it was also recorded that none of the prosecution witnesses have supported the version of the prosecution while giving benefit of doubt proceeded to impose the lesser punishment of stoppage of 3 future annual increments with permanent effect. It was further pointed out that appellate authority has failed to consider all the contentions raised in the appeal vide Annexure P-6. Therefore, the disciplinary authority, appellate authority as well as revisional authority orders are liable to set aside.

Per contra, learned counsel for the respondents has submitted that the disciplinary authority after due examination of the inquiry officer's report even though there were no evidence against the petitioner, the disciplinary authority has come to the conclusion that the petitioner is liable to be punished. Therefore, lesser punishment has been imposed. The appellate authority no doubt he has not examined each of the contentions raised by the petitioner, however, the petitioner has been heard in person on 28.2.2014, therefore, there is no infirmity in the order of appellate authority.

Heard learned counsel for the parties.

Perusal of the disciplinary authority's order, it is crystal clear that the charges levelled against the petitioner have not been proved by necessary evidence which has been recorded by the disciplinary authority. In the absence of evidence disciplinary authority proceeded to impose the punishment of stoppage of 3 future annual increments with permanent effect. It is to be noted that it is not lesser punishment, it has got cumulative effect. In other words, it amounts to major penalty. Further the appellate authority even though he had given personal hearing to the petitioner, it was bounden duty of the appellate authority to consider the appeal in accordance with the rules governing the appeal consideration. Perusal of the consideration of appeal it is evident that none of the contentions raised by the petitioner in appeal has been taken note of. Moreover, when the disciplinary authority has recorded that charges levelled against the petitioner was not proved and the charges were not supported by none of the prosecution witnesses, in such event it was the duty of the appellate authority to examine the order of the disciplinary authority. Thus, there is a

authority as well as revisional authority. Hence, orders dated 22.1.2014, 28.2.2014 and 13.08.2014 (Annexure P-5, P-7 and P-9, respectively) are set aside.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

March 21, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.