

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23953-2014

Date of Decision: May 16, 2017

Union Territory Chandigarh and others

.....Petitioners

Versus

Janender Kumar and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Suvir Sehgal, Sr.Standing counsel with
Mr.Daman Dhir, Advocate
for the petitioners.

Mr.K.B.Sharma, Advocate for
Mr.D.R.Sharma, Advocate
for respondent No.1.

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SURYA KANT, J.

The Chandigarh Administration has preferred this writ petition challenging the order dated 11.03.2014 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal'), whereby the order imposing punishment of Censure on the first respondent has been set aside.

[2] Suffice to mention that the first respondent joined Chandigarh Police as a Constable on 02.04.1979 and he was promoted as Head Constable in the year 1987. On 03.11.2003, he alongwith other policemen

was deputed to escort three prisoners to PGI for medical treatment when one

of the prisoner managed to escape from the custody of the first respondent and another constable. This incident led to registration of FIR against the first respondent and his associate under Sections 223/224 IPC. Learned Judicial Magistrate Ist Class, Chandigarh, convicted the first respondent on 14.03.2007. Keeping in view the conduct of the first respondent which led to his conviction on a criminal charge, he was dismissed from service on 31.01.2008. However, he was acquitted by the first appellate Court on 24.05.2010. Consequently, the Competent Authority reinstated the first respondent vide order dated 27.10.2010 but without prejudice to the outcome of departmental enquiry which had been independently and separately initiated against him.

[3] In the departmental enquiry, the first respondent was found guilty and punishment of stoppage of four increments with cumulative effect was proposed. However, taking a lenient view, the Senior Superintendent of Police, UT, Chandigarh, vide order dated 17.05.2011 imposed the minor punishment of Censure only.

[4] The Tribunal has set aside the punishment of Censure on the premise that the first respondent having been acquitted on the same set of allegations by the Court of Additional Sessions Judge, no punishment in the departmental enquiry could be imposed.

[5] During the course of hearing, learned counsel for the first respondent fairly states that in addition to the reasoning given by the Tribunal, there are other grounds taken by him which he wants to press before the Tribunal on merits.

by the Tribunal but having regard to the above-stated plea taken by learned counsel for the first respondent, the writ petition is allowed in part; Impugned order dated 11.03.2014 passed by learned Tribunal is set aside and the matter is remitted to the Tribunal for afresh adjudication on merits on the order of punishment of Censure. The parties are directed to appear before the Tribunal on 06.07.2017.

**(SURYA KANT)
JUDGE**

May 16, 2017
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**(SUDIP AHLUWALIA)
JUDGE**

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |