

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

Civil Writ Petition No.26982 of 2013

Date of decision: 20.09.2017

Raj Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Karamveer Singh Banyana, Advocate for the petitioner.

Ms. Shruti Jain Goyal, Assistant Advocate General, Haryana

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges enquiry report dated 29.3.2010 (Annexure P/1) and punishment order dated 5.7.2010 (Annexure P/2) whereby stoppage of five annual service increments with permanent effect were stopped. Challenge has also been raised to the appellate order dated 11.3.2013 (Annexure P/3) whereby the Commissioner of Police, Ambala-Panchkula dismissed the appeal on the ground that appeal is barred by more than two years and therefore, on account of being time barred, the same was rejected without going into the merits of the same. Similarly challenge has also been raised to the order dated 21.6.2013 (Annexure P/4) passed by the Director General of Police, Administration, Haryana-cum-Revisional Authority who dismissed the revision on the ground that enquiry did not suffer from any legal infirmity and the punishment awarded was commensurate with the misconduct committed by the petitioner.

Counsel for the petitioner submits that in the enquiry report the petitioner along with one co-employee was held negligent on account of the fact that they were posted out side the Government Polytechnic College on

14.11.2009 and some outsiders have been entered in the Polytechnic College by crossing over the rear wall. As the petitioner was not taking rounds of the college, quarrel had taken place among the two groups which led to the death of one student, namely, Sunil Kumar and other student namely, Bhupinder Kumar was injured. It is in such circumstances, it is submitted that the punishment was not commensurate with the misconduct. Reference is made to the communication dated 18.7.2016 (Annexure R/1) from the Principal, Govt. Polytechnic, Ambala City that there was no specific rule/regulation/instructions wherein the petitioner was supposed to take round of the college while on duty and no standing instruction was issued to the police personnel deputed in the institution regarding performance of duty.

Accordingly, counsel for the petitioner submits that the Appellate Authority has dismissed the appeal mainly on the ground of being time barred. The Revisional Authority has dismissed the revision keeping in view the strict arena of law whether there was any legal infirmity or whether there was any material irregularity in the departmental enquiry proceedings. Lack of proper appreciation whether the punishment awarded was commensurate with the misconduct committed by the petitioner especially keeping in view the allegation of dereliction of duty in the absence of any specific instructions of taking rounds in side the educational premises has led to his detriment.

Resultantly, keeping in view the subsequent communication dated 18.7.2016 (Annexure R/1), this Court is of the opinion that it would be appropriate if the Appellate Authority re-decides the issue on merits as by virtue of the said order, the petitioner would be as such prejudiced for all

times to come on account of the major penalty which has been imposed upon him.

Accordingly, the appellate order dated 11.3.2013 (Annexure P/3) and the order dated 21.6.2013 (Annexure P/4) passed by the Director General of Police, Administration, Haryana-cum-Revision Authority are set aside. The Appellate Authority shall decide the appeal afresh on merits keeping in view the aforesaid observations within a period of three months from the date of receipt of certified copy of this order.

Accordingly, the present writ petition is disposed off.

September 20, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No