

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

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CWP No.24875 of 2014 (O&M)

Date of Decision : 03.05.2017

EHC Inspector Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. U.K.Agnihotri, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This petition has been filed for quashing the impugned order dated 24.12.2012 passed by respondent No.4 whereby the petitioner was awarded punishment of stoppage of three annual future increments with permanent effect and for quashing the impugned order dated 28.10.2013 passed by respondent No.3 dismissing the appeal against the order dated 24.12.2012 and the impugned order dated 15.07.2014 passed by respondent No.2 dismissing the revision filed against order dated 28.10.2013 and also for quashing the impugned order dated 07.05.2014 passed by respondent No.4 whereby adverse remarks have been recorded on the Annual Confidential Report of the petitioner for the period from 07.05.2012 to 31.03.2013 and for quashing of the impugned enquiry report conducted by respondent No.5.

As per the case set out by the petitioner is that the petitioner

was appointed as Constable on 26.11.1998 in Haryana Police in General

recruitment of constable. He was confirmed as Constable and now is posted as EHC in Haryana Police. On 26.09.2011 one Tek Chand filed Crl. Writ Petition No.1904 of 2011 for release of his son Satish Kumar who was stated to be illegally detained in police station, Pehowa. Vide order dated 26.09.2011 this Court appointed a Warrant Officer who conducted raid in the said police station on 27.09.2011 at 04.05 PM and during the raid Saish Kumar was found detained in illegal custody in the police station and he was released by the Warrant Officer. The Warrant Officer submitted his report before this Court on 03.10.2011. On 12.10.2011 this Court issued notices to SHO Police Station, Pehowa and other staff including Home Secretary, Haryana. On 30.11.2011 this Court directed the Registrar, Vigilance of this Court to hold a fact finding enquiry and submit a report, who submitted its report on 09.05.2012 after conducting a fact finding enquiry. On 16.11.2011 the Superintendent of Police Kurukshetra submitted his reply before this Court. He submitted that he had also enclosed with his reply the enquiry reports conducted by DSP, Pehowa as well as the enquiry conducted by DSP (HQ) Karnal. As per enquiry reports there was no fault found on the part of the petitioner. On 17.12.2013 this Court disposed of the Crl. Writ Petition No.1904 of 2011. During the pendency of the above said Crl. Writ Petition, the respondent No.4 in connivance with SHO, Police Station, Pehowa and to save the skin of senior police officials, issued an explanation dated 20.10.2011 to the petitioner stating that the petitioner had got conducted raid of the Warrant Officer to get released Satish Kumar. The allegation against the petitioner is apparently false, fake and concocted as is clear from the enquiry reports.

The petitioner submitted reply refuting and denying the allegations against him. On 31.05.2012 the respondent No.4 wrongly, illegally and erroneously chargesheeted the petitioner. On 19.10.2012 the Inquiry Officer-respondent No.5 conducted an enquiry into the charges against the petitioner. During the enquiry, 8 prosecution witnesses were examined along with 4 defence witnesses. None of the PW has stated even a single word against the petitioner showing his fault nor there is any document or other evidence establishing and proving the charge against the petitioner. All the PWs and DWs have stated that the petitioner was not at fault in any manner in conducting the raid at the police station by the Warrant Officer appointed by this Court. The charges levelled against the petitioner are not proved in any manner against the petitioner nor there is any evidence to prove the charge but still without considering and appreciating the evidence on record, the Enquiry Officer held the petitioner guilty in an illegal, arbitrary, malicious and unconstitutional manner. On 23.11.2012 the respondent No.4 issued show cause notice to the petitioner proposing for inflicting punishment on the basis of enquiry report. The petitioner submitted his reply dated 14.12.2012 to the show cause notice explaining his innocence. On 24.12.2012 the respondent No.4 inflicted punishment of stoppage of three annual future increments with permanent effect against the petitioner without considering and appreciating the evidence on record, provisions of law and facts and circumstances of the present case. On 28.10.2013 the petitioner challenged impugned order Annexure P-12 in appeal which was wrongly and erroneously dismissed vide Annexure P-13 by the respondent No.3. On 15.07.2014 the petitioner challenged the

impugned orders Annexure P-12 and P-13 before respondent No.2 but the respondent No.2 dismissed the revision wrongly, illegally and erroneously vide Annexure P-14 without even touching the merits of the case and dismissed the revision only on account of the delay. On 07.05.2012 the respondent No.2 vide impugned order Annexure P-15 recorded adverse remarks in the annual confidential report of the petitioner in view of the impugned orders Annexures P-12 to P-14.

Learned counsel for the petitioner has argued that the allegation that the petitioner had connived with Satish Kumar is completely conjectural. He has further argued that from the very beginning the petitioner had accepted that Satish Kumar had gained entry into the police station through him but he had always been maintaining that he did not know the true purpose why Satish Kumar had wanted to come to the police station and had been only told that he had some work in the police station and since the petitioner was in a hurry the petitioner has introduced him to the junior Mushi and had gone to Kurukshetra for official duty without knowing what Satish Kumar would do afterwards. From the report of the Inquiry Officer I find that no evidence has been led to show that the petitioner was in the know of the plan of Satish Kumar. Consequently the charge of connivance against him is not made out.

Learned Assistant Advocate General has not been able to point out any piece of evidence which may show that the petitioner had the knowledge of the plans of Satish Kumar. However, it can not be gainsaid that the petitioner was the cause of this problem because without him Satish Kumar would not have gained entry into the police station. As a

responsible official, it was the duty of the petitioner to have ascertained from Satish Kumar what work he had in the police station.

In the circumstances, the petitioner can not claim to be completely blameless also.

The parameter for judicial interference in matters of punishment was laid down in case of *Union of India and another vs S.S. Ahluwalia*, 2007(7) SCC 257, wherein it has been held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

I find that in view of the allegation which has now been found against the petitioner viz. of having negligently permitting Satish Kumar to use his proximity to gain entrance into the police station, the punishment of stoppage of three increments with cumulative effect seems to be too disproportionate. I deem it appropriate to reduce the same to punishment of stoppage of one increment with cumulative effect. Ordered accordingly.

Petition stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

03.05.2017
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

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Yes/No

Whether reportable

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Yes/No