

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

219

**CWP-5914-2015 (O&M)
Date of decision: 19.04.2017**

Subhash Chand

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Kamal Singh, Advocate for the petitioner.

Mr. Sushil Gautam, DAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the present writ petition, the petitioner has questioned the validity of order dated 04.08.2009 (Annexure P4) and further sought for direction to take appropriate action with reference to petitioner's representation dated 13.10.2010 (Annexure P5).

2. The petitioner while working in Police Station City Yamuna Nagar, received communication on 23.08.2007 and 02.09.2007 from the Superintending Engineer Haryana Chandigarh Circle, PWD Department Haryana, Chandigarh for taking necessary action against one Sh. S.K.Vashist, Retired Executive Engineer who had taken away the tender register for the period from 21.01.2003 to 24.04.2004 from the concerned Clerk on the assurance that he will return the same which was not returned. The petitioner did not take any action on the above communication/letter

and it was kept pending without there being any reason or justification. Consequently, FIR was registered only on 19.03.2008 under Section 406 of IPC against Sh. S.K.Vashist, Retired Executive Engineer. Thus, the petitioner has not taken any action for a period of about 6½ months while he was working in PS City Yamuna Nagar. Arising out of the above facts and circumstances, the petitioner was subjected to disciplinary proceedings. It was concluded in imposing penalty of stoppage of 4 increments with permanent effect on 24.07.2008. Against the order of disciplinary authority dated 24.07.2008, the petitioner preferred an appeal before the appellate authority. On 29.09.2008 appellate authority rejected the petitioner's appeal being devoid of merit. Thereafter, the petitioner preferred a revision petition before the Director General of Police, Haryana. On 04.08.2009, Director General of Police, Haryana modified the penalty of stoppage of 4 increments with permanent effect to that of stoppage of 2 increments with permanent effect. Thus, the present petition has been filed questioning order dated 04.08.2009 of the Director General of Police, Haryana.

3. Learned counsel for the petitioner submitted that the petitioner is not at fault in not registering the FIR pursuant to the communication of Superintending Engineer, PWD, Haryana. Therefore, he is not responsible for delay in registering the FIR for about 6½ months. The disciplinary, appellate and revisional authorities have not appreciated the role of the petitioner in not registering the FIR pursuant to the complaint/letter of the Superintending Engineer against Sh. S.K.Vashist Retd. Executive Engineer. Therefore, order of punishment is liable to be set aside.

4. Per contra, learned counsel for the respondents vehemently contended that there is a serious lapse on the part of the petitioner in not registering FIR that too when a department official on behalf of the department submitted complaint to register FIR against irregularities committed by the Executive Engineer. No action has been taken by the petitioner for about 6½ months which is a serious lapse on the part of the petitioner. Therefore, no interference is called for quashing order dated 04.08.2009 (Annexure P4). Hence writ petition is liable to be dismissed.

5. Heard learned counsel for the parties.

6. Petitioner has not given his explanation why he has not registered the FIR during the intervening period from the date of communication Superintending Engineer to registered FIR against Sh. S.K.Vashist, Retd. Executive Engineer. There is a serious lapse on the part of the petitioner in not registering FIR for about 6½ months. The Supreme Court time and again issued guidelines that whenever a complaint is registered in the Police Station the same shall be reduced in writing by means of filing an FIR. Thus, there is a serious lapses on the part of the petitioner in not registering FIR. The petitioner has not made out a case so as to interfere with order of penalty as well as appellate and revisional authorities order. Hence CWP stands dismissed.

19.04.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No