

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5280-2016

Date of Decision: April 25, 2017

Sanjay Joshi

.....Petitioner

Versus

Central Administrative Tribunal and others

.....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.Sanjeev Pandit, Advocate
for the petitioner.

Mr.Kapil Kakkar, Advocate
for the respondent Nos.2 and 3.

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SURYA KANT, J.

The petitioner assails the order dated 18.12.2015 whereby Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal') dismissed his Original Application and has upheld the order of punishment vide which he was demoted from the post of Senior Assistant to Junior Assistant.

[2] The petitioner is an employee of the Estate Office, Chandigarh. He was holding the post of Senior Assistant at the relevant time. The petitioner was charge-sheeted alleging that with his collusion and connivance (also other staff members of the Estate Office), a private builder

was permitted to construct a three storeyed building over a residential plot

and that on the basis of a General Power of Attorney obtained from the owner of the house, without getting the building plans sanctioned. The specific allegation made against the petitioner pertained to non-filing of the written statement in a civil suit filed by the said builder due to which he succeeded in obtaining the order of status quo. The enquiry was held in which the Enquiry Officer allowed the petitioner to scot-free. It, however, becomes necessary to reproduce the view point taken by the competent Authority with reference to the role attributable to the petitioner and other officials. The office note dated 17.06.2011 of the Assistant Estate Officer (relevant extracts only) reads as follows:-

“DDR regarding the ongoing illegal construction was got registered through the SDO(B) on 11.06.2011 with the concerned Police Station, Sector 19, Chandigarh. Even this did not deter the builder from continuing the construction. On the other hand the field staff still failed to check the ongoing illegal construction and as a result of which constructions upto second floor roof level got completed. The undersigned had gone to Delhi with regard to court case in the Hon'ble Supreme Court of India, on 13.06.2011 and it was then that the SDO(B) of building branch brought to the notice of undersigned that roof of the second storey had also been laid and his staff was totally helpless to stop the illegal construction. The undersigned after calling the Senior Superintendent of Police, on the telephone got the area SHO to reach the spot and another DDR was registered with the concerned Police Station, Sector 19, Chandigarh, on 13.06.2011.

In view of the above, it is clear that Estate Office building branch staff has shown utter dereliction and negligence of duty, disobeyed the demolition order and

connived with the builder in letting the illegal construction in House No.3135, Sector 20-D, Chandigarh, go on with impunity. That possibility of money having changed hands can hardly be ruled out.

A three storeyed building has been constructed over the residential site No.3135, Sector 20-D, Chandigarh, in the heart of the city in full glare of the office without any sanctioned building plans. Contemptuous behaviour was on full display when the directions given by the civil Court to maintain status quo were not got enforced by the building branch, whereas to check illegal construction activity is the primary duty of the building branch.

To sum up, negligence and dereliction of duties of the building branch staff of the Estate Office, most probably for extraneous considerations, resulted in unauthorised construction of aforesaid house. Strictest of action needs to be taken against Sh.V.K.Jain, SDO(B), Sh.Manoj Kumar (Jr.Engineer) and Sh.Sanjay Joshi (Sr.Asstt.).”

[Emphasis by us]

[3] The petitioner was eventually served with a show cause notice; his reply was considered and thereafter the Disciplinary Authority passed a reasoned order whereby punishment of demotion in the rank was imposed. His departmental appeal also failed. The petitioner thereafter unsuccessfully approached the Tribunal. There is a categorical finding by the Tribunal that the enquiry proceedings have been conducted in accordance with the principles of natural justice and in conformity with the Rules. No procedural irregularity and illegality in the enquiry could be pointed out by the petitioner. As regard to the quantum of punishment, we are satisfied that

owing to the gravity of charges, the punishment imposed cannot be said to

be disproportionate in nature.

[4] No case to interfere with the order passed by the Tribunal is made out.

[5] Dismissed.

(SURYA KANT)
JUDGE

April 25, 2017
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(SUDIP AHLUWALIA)
JUDGE

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