

CWP No.6620 of 2015

Date of Decision: 11th January, 2017

Ct. Sanjay Kumar No.1353/KNL

....Petitioner

Versus

The State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. S.N. Yadav, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

AJAY TEWARI, J. (ORAL)

By this petition, the petitioner has challenged the punishment of stoppage of three increments with cumulative effect. The regular inquiry was initiated against the petitioner on the allegations when he was on PCR duty, his Incharge had telephonically informed him that he had to report at the residence of Sh. Kuldeep Sharma, (Hon'ble Speaker, Haryana Vidhan Sabha). On that, the petitioner first misbehaved with him on telephone and then reached the residence of the Speaker after an inordinate delay. When he was asked for the delay by the Incharge, he abused him. Prior to having been found guilty, regular department inquiry was effected and the aforementioned punishment was awarded. His statutory remedies having been rejected, the present petition has been filed before this Court.

Learned counsel has argued that before the conclusions of the inquiry, the Incharge had given an affidavit completely exonerating the petitioner and rather stated that no such occurrence had even taken place.

Learned Additional Advocate General, Haryana, on the other hand, argued that the act of the petitioner was proved in the inquiry by the testimony of the Incharge as well as by the medical opinion and the exculpatory affidavit could not wash away the substantive evidence. Even though the arguments of learned Additional Advocate General seem uncontrovertible but it cannot be denied that the original complainant has withdrawn his complaint. On the other hand, the action of the petitioner which has been proved before the disciplinary authority can also not be condoned. In “Union of India and Another vs. S.S. Ahluwalia, 2007(7) SCC 257” the Supreme Court 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....”

Keeping in view the entire conspectus of facts, I do not deem it appropriate to exonerate the petitioner but I reduce the punishment imposed on the petitioner to withdrawal of two increments with cumulative effect.

The petition stands disposed of accordingly.

January 11, 2017

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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No