

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

LPA No.1719 of 2017 (O&M)

Date of Decision : 05.12.2017

Balwinder Singh

....Appellant

Versus

State of Punjab and others

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

**Present : Mr.Kamaldip Singh Sidhu, Advocate
for appellant.**

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned
Single Judge dated 16.08.2016.

The appellant, who was working as Constable with the Punjab Police faced allegations of his complicity in an offence under Section 392 IPC. In fact, he was apprehended from the spot. This resulted in his trial, where he was acquitted on account of the witnesses turning hostile but in the disciplinary proceedings he was indicted. The writ court negated the challenge to the order of dismissal, which is now the cause of grievance to the appellant.

It is contended before us that once he has been acquitted by the trial court, he ought to have been reinstated. It has been urged before us that the Enquiry Officer did not even examine the complainant and in the absence of any other evidence the findings recorded by him in the disciplinary proceedings were unsustainable and as a consequence the orders passed by the disciplinary authorities

on the basis of such a report were equally liable to be set aside, but the writ court did not look into these issues.

We have heard the learned counsel for the appellant and have perused the order passed by the Commandant PAP (Disciplinary Authority).

We notice that the appellant did not participate even in the disciplinary proceedings resulting in ex-parte findings. When the disciplinary authority issued notice to him he responded with denial of the occurrence and appended photocopies of the compromise effected with the complainant. Finding the explanation unsatisfactory the appellant was dismissed from service.

The record reveals that there was a default in appearance before the Enquiry Officer as despite notices there was failure to respond. In this situation when there is hardly any explanation provided for non-appearance before the Enquiry Officer, there would be no occasion to accept any aspersions on the inquiry. The appellant was clearly involved in a serious offence and apprehended from the spot itself and thus had a lot to explain. The learned Single Judge also noticed these facts as also the fact that the appellant was arrested from the spot and remained in custody from 13.10.2010 to 26.10.2010 but did not resume his duties till 19.11.2010. Evidently, the entire conduct of the appellant was appreciated in right perspective by the disciplinary authority. In view of Rule 16.2 of the Punjab Police Rules the appellant clearly deserves the punishment that has been meted out to him. We do not find any legal infirmity in the order

passed by the disciplinary authority as affirmed by the writ court.

The appeal is, therefore, dismissed.

However, delay of 28 days in filing and 120 days in re-filing
the appeal is condoned.

(MAHESH GROVER)
JUDGE

05.12.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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