

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.4441 of 2016 (O&M)
Date of Decision : 14.11.2017

State of Haryana and others

..... Appellants

Versus

Mangli Ram

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Dr. Sushil Gautam, D.A.G., Haryana
for the appellants

Mr. K.B.Raheja, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit of the respondent.

The respondent was at the relevant time working as MHC at the Bakshi Khana at the District Courts Sirsa. On 04.05.2012 one under trial Rishal Singh had to be produced before the Court. Since he was ordered the under trial was brought from the jail and lodged in the Bakshi Khana. When he was to be produced in the Court he was sent along with EASI Rohtash Kumar. However that person was shot dead in the Court complex. An inquiry was lodged against the respondent on the charge that he had not provided adequate security to EASI Rohtash Kumar which resulted in Rishal Singh having been shot in the Court complex. The Inquiry officer exonerated him holding that at that time there were only 3 persons on duty and there were 15-16 inmates in the Bakshi Khana and therefore it was the

duty of the respondent to be present in the Bakshi Khana and it was only because of this paucity of force available that Rishal Singh was escorted only by one person and consequently the respondent was not at fault. The disciplinary authority however issued a disagreement note and gave an opportunity of hearing to the respondent and then proceeded to impose punishment of stoppage of four increments with cumulative effect. The respondent filed an appeal to the Inspector General of Police who noticed that two days prior to the incident the incharge of the Bakshi Khana had infact written to the Superintendent of Police (the disciplinary authority in the present case) pointing out that there was paucity of personnel at the Bakshi Khana and asking for more staff. In view of this fact the Inspector General of Police reduced the punishment of the respondent to stoppage of two increments with cumulative effect and this punishment was challenged by the respondent in the Civil suit. The Courts below noticed that while issuing the disagreement note it was incumbent upon the disciplinary authority to have recorded his reasons but no such reasons were recorded and even the finding of the inquiry officer regarding the paucity of personnel was not considered. The Courts below further noticed that after the incident the District and Sessions Judge, Sirsa had ordered a judicial inquiry and the Judicial Magistrate to whom the inquiry has been entrusted had also given a finding that the respondent was not guilty but even this was not considered by the authorities. Ultimately on these grounds the Courts below decreed the suit and set aside the punishment order.

Learned Deputy Advocate General is not in a position to deny that it was incumbent upon the disciplinary authority to record the reasons

He has however, argued that even if this is so the Courts below erred in acting as appellate authorities and at the most the option available to the Court in such a case is to set aside the inquiry from the point of vitiation and remand it back to the disciplinary authority to take further steps in accordance with law from that stage. He has argued that the Courts below misdirected themselves in deciding the case on merits.

Learned counsel for the respondent has argued that from the facts of the present case it is clear that no fault could be attached to the respondent. He has further argued that the Court can interfere in an order of punishment if it comes to the conclusion that its a case of no evidence. In this regard learned Deputy Advocate General has argued that DSP Parkash Chander had stated that the respondent was guilty and this was some evidence.

In my opinion the argument of the Deputy Advocate General has to prevail. Whatever be the probative value of the statement of DSP Parkash Chander it can not be said that it is a case of no evidence. In the circumstances the judgments of the Courts below are modified. The finding that the punishment order is vitiated is maintained. The matter is remanded back to the disciplinary authority for a fresh decision in accordance with law after considering all the points from the stage of submission of inquiry report.

Learned counsel for the respondent states that respondent has already retired.

In the circumstances, the disciplinary authority is directed to conclude the matter within a period of three months subject to cooperation

Appeal stands allowed in the above terms.

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

**(AJAY TEWARI)
JUDGE**

14.11.2017

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No