

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

RSA No.6446 of 2016 (O&M)

Date of Decision: 10.11.2017

Pardeep Kumar

. . . Appellant

Versus

The State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.N. Mehtani, Advocate for the appellant.

Mr.H.S. Sitta, Assistant Advocate Genera, Punjab.

Ajay Tewari, J. (Oral)

This is an appeal against the concurrent judgments of Courts below dismissing the suit of the appellant whereby he had challenged the imposition of punishment of stoppage of two increments with cumulative effect.

The appellant, at the relevant time, was posted as Deputy Superintendent of Police in Punjab Police along with Sub Inspector and Assistant Sub Inspector at Pathankot and had arrested one accused Balwinder Singh, under the NDPS Act, prior to 15.07.2003. During the trial, the date prior to 15.07.2003, he was bound down for appearing on the next date that was 15.07.2003. The appellant refused to accept the summons and instead made a noting that this refusal was because he had also been bound down to appear in the Court of another Additional Sessions Judge, Ferozepur. It later transpired that he did not appear before

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either of the Courts. Incidentally, on 15.07.2003, accused Balwinder Singh was acquitted since that was last opportunity to the prosecution to lead evidence. The appellant was charge-sheeted and after regular inquiry and following the due procedure, the punishment as mentioned above was imposed upon him.

The argument raised by learned counsel is that the appellant has been differentially treated *viz-a-viz* Sub Inspector and Assistant Sub Inspector who were also similarly bound down and who also did not appear. As per him, this differentiated treatment is hostile discrimination.

The Assistant Advocate General, Punjab has argued that at the first place, the appellant was a Gazetted Class-I Officer and should have known better than to refuse to accept the summons. Moreover, in this case reason given by the appellant for not appearing was that he was bound down to appear in some other Court, but he did not appear in that Court also thereby betraying the disregard he has for the process of law. He has further pointed out that charge-sheet against the appellant was for refusing to accept the summons while the others were-charge sheeted for not appearing. Consequently, it is his argument that there is no similarity in the cases and as regards punishment, the conduct of the appellant clearly shows that he had rather been treated leniently. Learned counsel has further argued that, as a matter of fact, the appellant did not even bother to file reply to the charge sheet.

Learned counsel has further argued that appellant had given a written application to the Enquiry Officer to permit him to lead defence evidence, but was not allowed.

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In this connection, the Courts below have noticed that as per the Enquiry Officer, he had asked the appellant to mention the reason for which their evidence was needed which was disclosed to him by the appellant, but the same was rejected. Even, today, I put it to learned counsel as to what the appellant wanted to get established from the witnesses, learned counsel has argued that those witnesses could have given the justification why the appellant could not appear, but learned Assistant Advocate General pointed out and rightly argued that the charge against the appellant was not that he did not appear before the Court, but that he refused to accept the summons. Not having filed reply to the charge sheet, there is no explanation as to why the appellant refused to accept the summons. It is highly regrettable that a Class-I Gazetted Officer would refuse to accept summons of a Court of law. If the police does this, it would bring down the authority of the Court in the eyes of general population. Even today, there is no justification with the counsel for the appellant as to what were the circumstances, which forced the appellant to refuse the summons.

In the totality of facts and circumstances which have come on record, I find no reason to interfere and the appeal is dismissed.

[AJAY TEWARI]
JUDGE

November 10, 2017.
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Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No