

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 552/2016**

Date of decision: 4th August, 2017

SURJEET SINGH Petitioner

Through: Mr.Ankur Chibber, Advocate

versus

UNION OF INDIA & ORS Respondents

Through: Mr.Kamal Kant Jha Sr.Panel
Counsel.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (Oral)

The petitioner, Surjeet Singh, has prayed for (I) quashing of
(a) penalty order dated 18.07.2013, punishing petitioner with
“deduction of salary equal to the salary of 3 days salary”, (b) the
enhanced penalty order dated 28.02.2014, “stopping his increment
for one year which would not affect his subsequent increments”, (c)
the order dated 11.06.2014 rejecting the appeal; and (d) order dated

28.01.2015 rejecting the revision and; (II) for directions to the respondents to expunge the penalty of withholding increment for a period of one year.

2. The petitioner does not dispute that he was responsible and assigned duty to check and frisk passengers at booth No.9 on 01.06.2013 at Indira Gandhi International Airport between 0500 hours to 1300 hours. It is undisputed that two passengers between 0956 hours 47 seconds to 57 seconds had broken the queue and had crossed over to the other side and had gone inside the Security Holding Area (SHA). Another allegation found to be correct was that the petitioner at that time was busy talking with Constable Pintu Biswas who was posted at booth No. 8. The evidence was captured in the CCTV footage.

3. The contention of the petitioner is that he was posted at frisking booth No.9 and therefore, was not responsible if two passengers had broken the queue and had crossed to SHA from frisking booth no.7. Referring to circular No. 23/2005, it is submitted that the Load Officer was responsible to ensure that no unauthorized person enters SHA without undergoing checks and

screening. Load Officer was not subjected to any penalty.

4. We have considered the said contentions but do not find them to be of substance and merit. The petitioner's accepts that the booth No.7 was closed at that time. This booth was not manned. Booth No. 9 is adjacent to booth Nos.7 and 8. The petitioner was talking with constable Pintu Biswas who was on duty at booth No. 8 and was not attentive and vigilant. Consequently, two passengers breaking the queue and had entered the SHA area from booth no.7. It would be rather supine and imprudent to accept the argument that the petitioner was not at fault and should not checked unauthorized entry to SHA from the closed booth No.7. To hold and to accept the plea would undermine and trivialize the duty, task and responsibility assigned to the petitioner. Given the aforesaid facts, the findings in the impugned order condemning the petitioner, do not require any interference.

5. Petitioner's submission that the Load Officer was not subject to any penalty does not impress us. Negative equality cannot be pleaded. Certainly, the petitioner should have objected and prevented any unauthorized entry from the closed booth to SHA

area. It is not the case of the petitioner that Load Officer was present with him at the booth.

6. Pinto Biswas posted at booth No.8 was also proceeded against and punishment of three days fine was imposed. Pinto Biswas had accepted the punishment and did not file any appeal. In other words, Pinto Biswas had accepted his fault. Further, Pinto Biswas was Constable, whereas the petitioner was Sub-Inspector. The petitioner was senior and, therefore, had shouldered greater responsibility. Blame and culpability on his part has been highlighted in the impugned orders. The argument of disproportionate punishment fails and has to be rejected.

7. Learned counsel for the petitioner has submitted that because of the punishment imposed, the petitioner would be denied promotion. Learned counsel for the respondents, on instructions, states that the petitioner would not to be denied promotion because of the punishment order under challenge, unless he has suffered another punishment in the last five years. The petitioner, it is stated would be eligible for next promotion in 2020.

8. In view the aforesaid discussion, we do not find any merit in

the present petition and is dismissed, with no order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

AUGUST 04, 2017/*mr*

