IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(I) CWP-26537-2013 (O&M)
Date of decision : 16.11.2018

Harmeet Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(II) CWP-16207-2014 (O&M)
Date of decision : 16.11.2018

Narinder Kumar Dua

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Jyoti Sareen, Advocate,
for the petitioner(s).

Ms. Bhavna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.

This judgment shall dispose of above-noticed two writ petitions as common questions of fact and law are involved therein. However, the facts are being derived from CWP-26537-2013, for the sake of brevity.

Prayer in the instant petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Certiorari, quashing order dated 02.02.2009 (Annexure P-5), passed by respondent

No.3, whereby, punishment of stoppage of three annual increments with cumulative effect had been imposed upon the petitioner; the order dated 13.10.2010 (Annexure P-7), passed by respondent No.2, thereby, dismissing the appeal preferred against impugned order (Annexure P-5) and further order dated 20.07.2012 (Annexure P-9), whereby, the review application preferred by the petitioner had been rejected as time-barred.

It is the case of the petitioner that he has been working as Excise and Taxation Inspector with the respondent-Department. On 01.08.2007 (Annexure P-1), a charge-sheet was served upon him alleging therein that while on duty at Information Collection Centre (ICC), Shambhu, the petitioner in connivance with dealers and transporters, deliberately allowed four vehicles to pass through the ICC without entry and in this manner, he has caused loss of revenue and committed negligence in duty. The said vehicles were apprehended on 04.07.2007 between 8.00 a.m. to 9.15 a.m. at a distance of about half a kilometer ahead of the ICC without any entry by Excise and Taxation Officer, Sh. Ram Singh, Mobile Wing, Patiala.

Learned counsel contends that as the vehicles in question were apprehended at a distance of half a kilometer from the ICC, the same could have escaped from two escape routes joining the Banur-Tepla road. It is further pleaded that none of the documents mentioned in the list of documents proved the passing of vehicles through the ICC. Learned counsel further refers to manual instructions dated 02.12.1999 for working of ICCs that the duty of Excise and Taxation Inspector is at the Inspector window and the documents are to be presented by the Incharge of the goods vehicles at the computer counter, where the Excise and Taxation Inspector has to check the documents and make a corresponding entry in the computer system. The Inspector is not expected to leave the inspector window which is at a distance of about 70 to 80 metres from the entry and exit point and manned by Class IV employees. The work of the Inspector starts only when the documents are presented to him at the inspector window and not otherwise. Learned counsel refers to the enquiry report (Annexure P-3) to contend that the Enquiry Officer has clearly exonerated the petitioner. The names of the drivers and/or the owners of the alleged vehicles were not cited reflected in the list of witnesses, nor the petitioner was granted any opportunity to cross-examine them. The review application moved by the petitioner has also been wrongly dismissed as time barred, without affording any opportunity of hearing to the petitioner. In the end, she states that the penalty imposed is disproportionate to the conduct alleged.

On the other hand, learned State counsel submits that as per the enquiry report (Annexure P-3), it is proved that one vehicle bearing registration No.HR-37-6585 passed though the ICC without getting the entries of the documents entered in the system. It has also been proved that the bill of lading bears the stamp of the ICC but there is no corresponding entry in the computer system. Moreover, it has also been mentioned in the enquiry report that the vehicle had goods loaded on it and the owner thereof has admitted in writing that the vehicle had entered the ICC. It has also been mentioned in the enquiry report that this vehicle crossed the ICC. She further submits that the circumstantial evidence also leads to the fact that remaining three vehicles also crossed the barrier along with vehicle No.HR-

37-6585 and the enquiry officer has held that the liability of the petitioners in respect of crossing of the vehicle No.HR-37-6585 through the ICC is proved. It is further submitted that the review application filed by the petitioners was time barred and thus, has been rightly rejected on the ground of delay.

Heard.

The enquiry officer in his report (Annexure P-3), has specifically held that the vehicle No. HR-37-6585, passed through the ICC. The stamp was affixed on the bill of lading, but the corresponding entry has deliberately not been made. In this regard, statement of the owner of the vehicle in question was also recorded who has specifically stated that the vehicle had passed thorough the ICC. The petitioner being Excise and Taxation Inspector, was duty bound to enter details of all the vehicles passing through the ICC. Before passing the impugned order of punishment (Annexure P-5), proper procedure has been adopted and the petitioner has been given full opportunity to defend himself. The punishment imposed is commensurate with the offence committed by the petitioners. The argument raised by learned counsel for the petitioners that the review application moved by the petitioners has been wrongly dismissed as time barred is also negated in view of the provisions of Rule 21 of the Punjab Civil Service (Punishment and Appeal) Rules, 1970 which provide for filing of review application within six months from the date of passing of the impugned order. In the instant case, the review application was filed belatedly, i.e. after more than 17 months and thus, it has been rightly rejected as time-barred.

In view of the above, the instant petitions being devoid of any merit, are hereby dismissed.

A photocopy of this judgment be placed on the file(s) of the connected case(s).

16.11.2018 **(JITENDRA CHAUHAN)**
atulsethi **JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No