

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20086-2018

Date of Decision: August 13, 2018

Chandigarh Administration and others

.....Petitioners

Versus

Central Administrative Tribunal, Sector 17, Chandigarh and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Suman Jain, Advocate for the petitioner.

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SURYA KANT, J.(ORAL)

Chandigarh Administration is aggrieved by the order dated 08.09.2017 passed by Central Administrative Tribunal, Chandigarh Bench (for brevity,'the Tribunal'), whereby punishment of forfeiture of one year of approved service with permanent effect imposed on respondent No.2 just four days before his retirement, has been set aside.

[2] Respondent No.2 was recruited as a Constable in Chandigarh Police in 1985 and he retired as Assistant Sub Inspector on 31.12.2014. While in service when he was posted to drive the vehicle bearing No.CH01 G1 6152, he submitted that the vehicle was giving average fuel consumption of 10 km per litre. A Board was constituted which opined that the vehicle was giving average of 13 km per litre. Departmental enquiry was initiated against respondent No.2 in which the Enquiry Officer exonerated him. The Punishing Authority, however, ordered *de novo* enquiry in which the second

respondent was held guilty of misappropriating 51 litres of diesel. The second respondent was due for retirement on 31.12.2014. The Competent Authority passed an order on 26.12.2014 imposing punishment of forfeiture of one year of approved service for increment purpose with permanent effect. The Tribunal has set aside the said order observing as follows:-

“We hold that the pre-dating of punishment is against the principles of natural justice and direct that the punishment period should follow the punishment order and not have pre-dated effect. Whereas normally, it is not appropriate for the Tribunal to sit in judgment on the disciplinary authority and the appellate authority, in this case, we set aside the punishment in view of the fact that the interest of justice is not served by pre-dating the punishment to a year prior to the issue of punishment order.”

[3] We have heard learned counsel for Chandigarh Administration. Ordinarily, where the Tribunal finds that the order of punishment suffers with a curable defect, it ought to have set aside the same and given liberty to Competent Authority to pass a fresh order as may be permissible under the law. We are, however, still not inclined to call upon respondent No.2, who is a retiree and a senior citizen. Allegation was of misappropriation of 51 litres of diesel, which was initially not proved in the regular enquiry though subsequently the Competent Authority held him guilty of the said charge. The punishment of forfeiture of one year of approved service with permanent effect means a 'major punishment' as it is bound to affect the pension of the second respondent throughout his life. There are, thus, harsh consequences of the awarded punishment, which has been rightly set aside by the Tribunal. When the second respondent was

nearing his retirement, the appropriate recourse would have been to recover the loss caused by him to the State exchequer, may be with an additional minor punishment. Unfortunately, no such order was passed. At this juncture if the order of the Tribunal is modified for which respondent No.2 will have to be heard, the cost of litigation incurred by him will be much more than the recovery which may be permitted to be affected from him.

[4] Taking into consideration the peculiar circumstances, we are not inclined to interfere with the order passed by the Tribunal.

[5] Dismissed.

**(SURYA KANT)
JUDGE**

August 13, 2018
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**(SUDIP AHLUWALIA)
JUDGE**

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |