

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****RSA 4424/2010****Date of decision:18.07.2018**

Rajesh Kumar

.....Appellant.

v.

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.SK Redhu,Advocate for the appellant.
Mr.Sunil Kumar Vashisht,DAG Haryana for respondents.

Jaswant Singh,J,(Oral).

Plaintiff/appellant is in second appeal against concurrent findings returned by the Courts below whereby his suit for declaration was dismissed by Civil Judge (Junior Division)Gurgaon vide judgment and decree dated 19.2.2009 and findings thereof affirmed by learned District Judge, Gurgaon vide judgment and decree dated 27.7.2009.

Plaintiff/appellant, a Constable with Haryana Police is alleged to have indulged himself in indiscipline activities on 20.1.2002 by spreading indiscipline amongst the candidates appearing for B-1 Test on that date. He was found guilty by Sh.Samunder Singh,DSP. Thereafter a departmental enquiry was conducted against the plaintiff in which it was held by the Enquiry Officer that plaintiff intervened in the B-1 test alongwith other officials. He was served with a show cause notice dated 18.7.2002 for dismissal by the SP Commando(H). Plaintiff was afforded opportunity of personal hearing and thereafter penalty of stoppage of five annual increments with cumulative effect was imposed upon him by SP Commando,Haryana Naval,Karnal vide order dated 8.1.2003. Aggrieved against the same plaintiff filed an appeal and the same was partly accepted

and punishment was modified to stoppage of three annual increments with cumulative effect by IGP-defendant no.2 vide order dated 28.6.2004. Still aggrieved plaintiff preferred a revision before DGP Haryana but the same was rejected vide order dated 22.11.2004. Plaintiff in his suit for declaration challenged the punishment order as also appellate and revisional order. However, as noticed above his suit was dismissed and findings thereof affirmed in appeal. Hence the present second appeal.

Heard learned counsel for the parties and perused the impugned judgments and decrees.

Both the Courts below on the basis of oral as well as documentary evidence have held that when the police officials were sitting in the ground for the purpose of B-1 Test the plaintiff along with constables Joginder Singh, Balwant Singh and Anil Kumar came there and asked the candidates to stand up and abstain from appearing in the test and boycott the same unitedly. They were also found to have threatened the other candidates that they would not be allowed to appear in the B-1 Test. Though plaintiff examined as many as seven witnesses to rebut the oral evidence led by defendants, however, the same was not taken into consideration keeping in view the fact that the witnesses appearing for the defendants were all senior Police Officers. As regards conduct of inquiry plaintiff while appearing as PW-1 in his cross examination has admitted that he was afforded full opportunity to defend him including personal hearing. While rejecting the claim of the plaintiff his past conduct has also been taken care of by the courts below as it was found that as per punishment order plaintiff was found to be a habitual absentee and was awarded various punishments on account of his remaining absent on 29 different occasions.

Further it was also found that in his six monthly reports relating to the period from 01.12.1993 to 30.11.1994 there were adverse remarks to the effect that he was lazy on duty, did not obey the orders and instructions and was habitual of doing duty at his discretion creating indiscipline and was totally bereft of good behaviour and well manner. However, taking a lenient view on his representation he was warned for his said conduct by the Departmental Authorities. On an earlier occasions in another inquiry he was found guilty of misbehaving with Head Constable Sure Kumar. It was thus held that there was nothing on record to infer that the plaintiff suffered any prejudice during inquiry or there was violation of any procedural safeguards so as to warrant interference in the findings recorded by the Inquiry Officer or with the punishment order.

This Court finds that the procedure provided for imposition of punishment has been duly followed and the findings recorded are neither perverse nor irrational and the punishment imposed is neither disproportionate nor arbitrary. Therefore, in view of the parameters enumerated in disciplinary matters by Hon'ble the Supreme Court in **S.R. Tewari Vs. Union of India and Anr. (2013)6 Supreme Court Cases 602**, no case for interference is made out.

In view of the above, no question of law much less substantial question of law arises in this appeal.

Dismissed.

18.07.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No