

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

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**RSA-1655-2015 (O&M)  
Date of decision:17.01.2018**

Balwan Singh

....Appellant

Versus

State of Haryana and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

Present: Mr. Rajesh Goyal, Advocate for the appellant.

Mr. Gagandeep Wasu, Addl. A.G. Haryana.

**P.B. BAJANTHRI, J. (ORAL)**

In the instant writ appeal, appellant has challenged the order of the appellate court dated 12.08.2014.

2. Appellant while working as EHC he was subjected to disciplinary proceedings on the allegation that he had demanded illegal gratification of Rs.100/- from a canter Driver. In this regard, Deputy Superintendent of Police filed a complaint. Consequently inquiry was held against appellant. It was concluded in imposing penalty of withholding of three increments. Further suspension period from 21.04.2010 to 21.10.2010 held as suspension only.

3. Feeling aggrieved by the order of the disciplinary authority, appellant preferred appeal as well as revision in which he has suffered orders. Thus, he has filed suit before the trial court and trial court decreed the appellant's suit. Consequently, respondent-State filed appeal before the appellate court. Appellate court reversed the decree passed by the trial court. Hence the present appeal.

4. Learned counsel for the appellant submitted that prime witness to the alleged allegation of demand and acceptance of illegal gratification of Rs.100/- i.e. Canter driver has not been cited as witness and he has not been examined in the disciplinary proceedings. In the absence of examining relevant and prime witness insofar as demand and acceptance of illegal gratification of Rs.100/- inquiry officer has held that charges levelled against appellant got proved. Same has been upheld by the disciplinary, appellate and revisional authorities.

5. Substantial question of law in the present appeal is that rules of disciplinary proceedings have been followed or not and appellant had been denied reasonable opportunity or not?

6. Having regard to the fact that illegal gratification given by the Driver but he has not been cited as witness and his evidence has not been adduced. What has been taken note of is hearsay evidence and it was not corroborated by any person. Therefore, finding of the disciplinary authority would be farce and contrary to disciplinary rules. Thus, trial court rightly decreed the suit. The appellate court failed to appreciate that canter Driver who had alleged to have give illegal gratification of Rs. 100/- to the

appellant has not been examined or cross-examined so also he has not been cited as witness. Therefore, order of appellate authority dated 12.08.2014 is set aside.

7. Appeal stands allowed.

**17.01.2018**

pooja saini

**(P.B.BAJANTHRI)**  
**JUDGE**

Whether speaking/reasons:

Yes/No

**Whether Reportable:**

**Yes/No**