

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.11049 of 2019 (O&M)
Date of Decision.12.07.2019

EASI Krishan Kumar

...Petitioner

Vs

State of Haryana and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

:-

AMIT RAWAL J. (ORAL)

Petitioner in the present case sought quashing of enquiry proceedings conducted by Enquiry Officer and order of Appellate and Revisional Authority whereby punishment of stoppage of three increments with permanent effect has been imposed. Allegation against petitioner was that they intercepted one *tralla* and demanded a sum of ₹200/- from driver.

Mr. Yadav, learned counsel appearing for petitioner submits that aforementioned allegation was totally off the record as driver while appearing before Enquiry Officer submitted that he was not asked to pay sum of ₹200/- but this piece of evidence has been ignored by Enquiry Officer, Appellate Authority as well as Revisional Authority. Appeal as per provisions of Rule 16.32 of Punjab Police Rules, 1934, as applicable to State of Haryana is stated to be pending.

I am afraid aforementioned argument would not be sustainable, as attempt is being made for re-appreciation of evidence, which is not in domain of this Court to bring case within realm of

judicial review under Article 226 of the Constitution. If at all, petitioner is still aggrieved, at the best, remedy was to file civil suit.

Mr. Yadav submits that this Court can re-appreciate evidence since all authorities have applied their mind while going through each and every document, much less, evidence in endorsing opinion of Enquiry Officer.

As regards maintainability of mercy appeal, attention was drawn to Rule 16.32 of Punjab Police Rules, 1934, which reads as under, prescribing enabling provisions for filing mercy appeal:-

“16.32 Revision:- An officer whose appeal has been rejected is prohibited from applying for a fresh scrutiny of the evidence. Such officer may, however, apply, within a month of date of dispatch of appellate authority orders to him, to the authority next above the prescribed appellate authority for revision on grounds of material irregularity in the proceedings or on production of fresh evidence, and may submitted to the same authority a plea for mercy: provided that no application for the revision of an order by the Inspector General will be entertained. An Officer whose appeal has been heard by the Inspector General, may, however, submit to the Inspector General a plea for mercy or may apply to the Inspector General for a review of his appellate order only on the ground that fresh evidence has become available since the appellate order has been pronounced. This rule does not affect the provision of

Rule 16.28.”

On perusal of aforementioned Rule, this Court called upon Mr. Yadav to point out through record as to which fresh evidence has surfaced enabling petitioner to avail such remedy but no such evidence was pointed out. In the absence of same, mercy appeal against order of appellate authority/revisional authority as per Rule *ibid* is not maintainable. No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

July 12, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No