

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24875 of 2019

Date of Decision: September 09, 2019

HC Mahabir Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

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

AMIT RAWAL, J. (Oral)

Prayer in the present writ petition is for quashing of the impugned orders dated 22.09.2011 (Annexure P-7), 11.11.2011 (Annexure P-9) and 02.07.2019 (Annexure P-11).

Mr. Aditya Yadav, learned counsel representing the petitioner submitted that the petitioner was enrolled in the department of Haryana Police as a Constable and thereafter promoted as Head Constable. While being posted at Police Station, Tosham, one unknown person filed an application against the petitioner and as well as SI Subhash Chander containing allegation for illegal mining. Petitioner was served with a charge sheet. Being dissatisfied with the reply, departmental enquiry was ordered against the petitioner alongwith SI Subhash Chander. The Enquiry Officer, vide report dated 25.01.2010 (Annexure P-4), exonerated the petitioner. However, the Inspector General of Police, Hisar Range Hisar recorded disagreement note and proposed the punishment of dismissal from service.

This disagreement note was after a lapse of eight months. Appeal under the Punjab Police Rules as applicable to the State of Haryana was filed resulting into reduction of the punishment from dismissal to stoppage of four increments with permanent effect. Petitioner filed revision before the Director General of Police, Haryana highlighting the illegality, particularly misreading of the statement of PW-4 and other instructions of the Chief Secretary issued from time to time as for illegal mining, there are already special teams constituted by the State of Haryana and the role of the police, in such circumstances, is minimum. The order of the revisional Court is bereft of reasoning and, therefore, petitioner has been prevented from putting across the things, much less non-application of mind.

Notice of motion.

Mr. Kiran Pal Singh, learned Assistant Advocate General, Haryana accepts notice on behalf of the State and supports the order, but did not deny the reasoning assigned in the impugned order.

I have heard the learned counsel for the parties and appraised the paper book.

The concluding part of the impugned order reads thus:-

“And whereas, after hearing the petitioner HC Mahabir Singh No.685/BWN and having gone through the relevant record of the case, it has been observed that the departmental action under PPR 16.28 has been taken as per procedure laid down in PPR and does not suffer from any legal infirmity. The punishment is based on video footage which proves his misdeeds. The punishment has already been substantially reduced in revision. Hence, the appeal of HC Mahabir Singh No.685/BWN is dismissed.”

I am of the view that the Additional Chief Secretary exercising

the power of revisional court should not have passed the impugned order in the manner and mode as indicated above, for, the scope of the revision is for pointing out the illegality or irregularity in the order which has resulted into reduction of punishment from dismissal to stoppage of four increments with permanent effect. It will not debar the department from examination of the witnesses which went unnoticed by the appellate court.

Without commenting on the merits and de-merits of the case, I set-aside the impugned order and remand the matter to the revisional court to decide the case afresh after affording opportunity of hearing and going through the material on record.

This Court is sanguine of the fact that this exercise will be taken within a period of four months from the date of receipt of certified copy of this order.

Petition stands disposed of.

September 09, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No