

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

CWP No.7068 of 2018

Date of Order: 04.2.2019

Prem Singh

....Petitioner

Versus

State of Haryana and Ors.

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Sonak, Advocate for the petitioner.

RITU BAHRI, J (ORAL)

Challenge is laid to order dated 15.1.2014 (P.5) whereby the petitioner has been imposed punishment of stoppage of six annual increments with cumulative effect, which amounts to major penalty.

The short point involved in the controversy in hand is whether the petitioner without being found guilty in the inquiry report can be given major punishment by the Punishing Authority.

A perusal of the impugned order shows that the allegation levelled against the petitioner is that on 26.8.2002 when he was posted as Warder at Central Jail, Ambala, he had brought stamp to prisoner Manohar Singh son of Amarjit Singh on the basis of which said prisoner obtained four weeks parole on 03.2.2004 but after completion of the period of his parole, said prisoner did not come back to Jail. After investigation, said prisoner disclosed that the petitioner-Prem Singh had given him forged stamp. After issuing charge sheet to the petitioner and getting his reply, the

Inquiry Officer gave his report holding that the allegations levelled against

the petitioner are not proved for initiating further action against him.

Thereafter, a show cause notice was issued to the petitioner along with the inquiry report on 16.12.2013 and in the reply given by the petitioner, he stated that on the allegations of giving forged stamp to the prisoner Manohar Singh, a criminal case had been registered against him on 19.3.2004 under Sections 420,461,468,471,120-B IPC in which he was acquitted of the charges by the court of JMIC, Ambala vide judgment dated 11.9.2007. The Punishing Authority afforded him a personal hearing and imposed penalty of stoppage of six annual increments with cumulative effect while disagreeing with the inquiry report.

The short question for consideration in this writ petition is whether while disagreeing with the inquiry report, the Punishing Authority was required to give reasons. Reference may be made to a Division Bench Judgment of this Court reported as **Jarnail Singh vs. State of Punjab, 2003 (3) SCT 255 (P.11)** wherein the Punishing Authority did not accept the inquiry report and passed an order without recording any reasons while disagreeing with the inquiry report and thus the order passed by the Punishing Authority was set aside. Reference has also been made to another judgment of this Court reported as **P.K Prashar vs. Union of India and Ors, 2008 (6) SLR 202** wherein the Disciplinary Authority had not adverted to any of the findings recorded by the Inquiry Officer to give any reasons and imposed the punishment of censure and it was held that the reasons of disagreement are to be recorded in respect of findings recorded by the Inquiry Officer as mere reproduction of charges does not satisfies the requirement of reasoned disagreement note. Accordingly, punishment of censure was set aside.

Keeping in view the ratio of judgments cited above, the impugned order passed by the Punishing Authority imposing the major penalty of stoppage of six annual increments with cumulative effect is liable to be set aside as no reason has been disclosed in the same as to why the Punishing Authority has disagreed with the inquiry report.

Taking into account the facts of the present case and also the fact that the petitioner has already been acquitted in the criminal case of the charges levelled against him vide judgment dated 11.9.2007 passed by the JMIC, Ambala, present writ petition is allowed and the impugned order dated 15.1.2014 (P.5) is set aside. However, liberty is granted to the Punishing Authority to pass fresh order within a period of six months from today while recording reasons for disagreeing with the inquiry report after giving notice to the petitioner.

February 04, 2019
manoj

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No