

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-2281-2016 (O&M)
Decided on: 27.03.2019

Ex. Constable Gulshan Kumar Appellant

Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rohan Mittal, Advocate
for the appellant.

Mr. Randhir Singh, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J.

CM-4730-LPA-2016

This is an application under Section 151 of the Code of Civil Procedure read with Section 5 of the Limitation Act for condonation of 6 days' delay in filing the appeal.

After hearing learned counsel for the appellant and perusing the application, which is supported by an affidavit, the delay of 6 days in filing the appeal is condoned.

CM stands disposed of.

LPA-2281-2016

Challenge in this Letters Patent Appeal is to the judgment dated 30.08.2016 passed by the learned Single Judge, whereby CWP No.17343 of 2016 filed by the appellant was dismissed.

2. The facts in brief, necessary for adjudication of the present appeal are that in consequence to departmental proceedings which were initiated by the respondent-State against the appellant, impugned order dated 01.08.2011 (Annexure P-1) was passed for an alleged incident of

misconduct on 13.06.2011. On the given date, the appellant was on Quarter Guard duty in Police Lines, Yamuna Nagar and had been issued an Insas Rifle No.14. However, on the following day, when the Guard duty was changed and the weapons were checked, it was found that the magazine of rifle No.14 issued to the appellant was short by 5 rounds of ammunition. A search was carried out in the Police Lines to trace the appellant, who was traced after some lapse of time. On being called upon to give an explanation regarding the missing ammunition, he denied having retained the same. But, when his personal search was carried out, a recovery of 5 rounds of live ammunition from the pocket of his trousers was effected. A police official of the rank of Deputy Superintendent of Police was appointed as an Inquiry Officer, who after conducting the inquiry held the appellant guilty vide his report dated 28.06.2011 (Annexure P-2). After following the due procedure of issuance of show cause notice and affording an opportunity of personal hearing, the Superintendent of Police, Yamuna Nagar passed the order of dismissal of the appellant dated 01.08.2011. It may be noticed that the appeal and revision preferred by the appellant before the IGP, Karnal Range, Haryana and DGP, Haryana respectively against the aforementioned order, were rejected.

3. Learned counsel for the appellant has submitted that the learned Single Judge erred in not appreciating that the appellant was suffering from clinical depression and had been discharged from the psychiatry ward of the hospital on 06.06.2011, just a few days prior to the alleged incident in question. He further submitted that the order of dismissal passed was grossly disproportionate to the act committed by

the appellant and could not be construed to fall within the expression of “gravest misconduct”.

4. Learned counsel for the appellant has placed reliance on **Dhan Singh vs. State of Haryana (2008) 3 Service Cases Today 816 and State of Punjab vs. Parkash Chand (1992) 1 Punjab Law Reporter 36** and submitted that the judgment of the learned Single Judge in upholding the dismissal of the appellant was thus, not only erroneous but also vitiated in law.

5. Per contra, learned counsel for the respondent-State contended that a departmental enquiry in accordance with law was conducted after following the due procedure and the punishing authority rightly recorded a finding that the conduct of the appellant fell within the term of “gravest misconduct”.

6. We have heard learned counsel for the parties as well as perused all the material on record.

7. Rule 16.2(1) of the Punjab Police Rules, 1934 reads as under:-

“PPR. 16.2. Dismissal: (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.”

8. A perusal of the statutory provision leaves no manner of doubt that a penalty of dismissal can be awarded on account of gravest

acts of misconduct or on account of cumulative effect of continued misconduct.

9. The relevant observations and findings of the learned Single Judge, while dismissing the writ petition filed by the appellant are extracted as under:-

“This Court finds that even the mandate of Rule 16.2 of the Punjab Police Rules as regards considering the length of service rendered by the petitioner has been met. In the impugned order itself, it has been observed that in his service tenure of 12 years, the petitioner has been imposed 3 different penalties i.e. stoppage of 10 increments, having been dismissed from service but subsequently the penalty having been reduced to stoppage of 4 increments and thirdly stoppage of 1 increment. Punishing Authority has also observed that in spite of these 3 punishments having been imposed, petitioner's conduct has not improved. Suffice it to observe that while imposing the major penalty of dismissal vide order dated 01.08.2011 at Annexure P-1, the Superintendent of Police, Yamuna Nagar has considered the service period of 12 years put in by the petitioner and has covered such aspect.”

10. We concur with the observations of the learned Single Judge. A perusal of the inquiry report dated 28.06.2011 (Annexure P-2) reveals that the appellant has had a chequered service record. As a member of a disciplined force, it was incumbent upon him to scrupulously follow the rules and maintain the ethics and integrity fundamental to the service he opted to join. Hence, it goes without

saying that his conduct was one of gross indiscipline. In his service record of 12 years, he had been handed down 3 different punishments excluding the last one which led to his dismissal vide order dated 01.08.2011. The prayer of the learned counsel for the appellant that the quantum of punishment be reduced cannot be acceded to and hence does not deserves acceptance.

11. Before concluding, we would like to observe that in cases wherein a member of a disciplined force is held guilty of gross and grave misconduct, no tolerance, much less leniency should be shown. Maintenance of a high standard of discipline, faithful performance of duties in accordance with law and integrity of the highest order is paramount and the least which can be expected from personnel of a disciplined force like police. If a police personnel himself is found to be indulging in indiscipline, it would not be possible for the public to repose any trust in the force. The security and safety of the public itself would be in peril at the hands of such an indisciplined personnel. A member of any disciplined force must keep not only his personal life, but also his official life scrupulously clean and above board.

12. Hence, we are of the considered opinion that the present appeal is bereft of any merit and hence, does not warrant any interference.

13. Accordingly, appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

27.03.2019

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Whether speaking/reasoned : Yes

Whether Reportable : Yes