

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

**LPA-1661-2018 (O&M)
Reserved on : 07.12.2022
Pronounced on : 15.12.2022**

Vinod Kumar

....Appellant

Versus

State of Haryana and others

.... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

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

Ms. Palika Monga, DAG, Haryana.

G.S. Sandhawalia, J.

Consideration in the present Letters Patent Appeal is to the order of the learned Single Judge dated 15.12.2016 passed in **CWP No.26028 of 2016 ‘Vinod Kumar Vs. State of Haryana and others’**, whereby he dismissed the writ petition in limine, which was directed against the orders of the punishment of stoppage of five annual increments with cumulative effect.

2. The reasoning given by the learned Single Judge was that initially an FIR had been registered against the writ petitioner who was serving as EASI by a Tea Stall owner, who had been beaten up and threatened, since he was delegated the job of accepting entry fee on behalf of the writ petitioner from trucks. On account of a dispute regarding the amount of money which has been received from the truck driver and the demand as such had led to the said incident. The allegations having been enquired into by the inquiry officer and the appeal and revisions had been duly considered and rejected. The cancellation of the FIR on account of

the compromise was held to be of no help to the writ petitioner and it was, accordingly, held that it was unbecoming of an police officer. It was held that it was trite that even though the criminal case matter has been decided against the prosecution but the standard of proof required in departmental proceedings was that of preponderance of probability and in the criminal case it was beyond of shadow of reasonable doubt. It was, accordingly, held that the adequacy or sufficiency of material before the disciplinary authority was not to be gone into and, therefore, the learned Single Judge refused to interfere in the orders passed on the departmental side.

3. Counsel for the appellant has mainly tried to submit that since in the criminal matter, the appellant had been discharged by the trial Court on 17.09.2012 (Annexure P-2), the benefit should have awarded of the said fact since the complainant himself has stated that he is satisfied with the police report and did not want to proceed further.

4. We have perused the paper-book and find that an FIR No.252 dated 18.08.2012 (Annexure P-1) under Sections 323/506 IPC was lodged at Police Station Thanesar Sadar, District Kurukshetra by one Arvind Kumar who was running a Tea Stall near Police Check Point/Naka at Umri Chowk. He had deposed that the police officials usually do not take entry fees and asked the drivers to gave the same to their shop. One tractor driver had given `100/- to his brother and when the appellant alongwith the other police officials had come there for collecting money, they asked for `500/- and were told that the amount of money given by the truck drivers had been kept separately, but only `100/- had been given by the said driver. Resultantly, the complainant's brother was beaten by a wooden stick and injuries were given to his arm and head and when he objected to the same police officials also started beating him and

threatened that they would get the shop demolished and they would kill them.

5. Apparently, on the allegations leveled departmental proceedings were also initiated and the summary of charges (Annexure A-2) against both the police officials were that FIR had been registered and they had been given beating and threatened to kill them. When Sub-Inspector, Incharge, Police Station Sadar Thanesar had gone to make investigation, they were found absence from duty. Resultantly, it was found that there was negligence and disciplinary action in form of departmental inquiry was initiated against them.

6. The inquiry proceedings were handed over to Shri Surjeet Singh, IPS, the then DSP, Pehowa who recorded the statement of as many as 7 prosecution witnesses, whereas in the defence 3 persons were examined. Pritam Singh, Sub-Inspector who had been sent to investigate the matter at the initial stage had also found and stated that both of them were absent and their absence was also recorded vide rapat No.29 dated 22.08.2012. He had also stated that he had recommended to the higher authorities for conducting departmental enquiry. However, in cross-examination he admitted that the investigation of the case had been cancelled vide Zimni No.6 dated 14.09.2012 as no truth was found in it.

7. The statement of Arvind Kumar-complainant was also recorded and similarly of his brother, wherein they admitted that there were some talk and they were frightened due to said talk and they denied the fact that they were given beating and the FIR was registered due to fear, which had been cancelled. It also transpires from the inquiry report dated 15.04.2013 (Annexure A-1) that request for anticipatory bail had also been rejected of the police officials. Thereafter, the cancellation

report was prepared immediately on 14.09.2012 and an application for discharge was also moved.

8. It is, thus, apparent from the inquiry report that on account of the anticipatory bail being dismissed, the police officials prevailed upon the complainant and his family members to get the matter settled and, therefore, the said witnesses also did not depose in the same terms as initially done in the FIR which they had lodged. The fact also remains that the factum of absence was proved by the Investigating Officer and he had noted the same, on the basis of which it was held that the charges against them were found to be proved, which was sought to be distinguished as such by the counsel for the appellant that there was no adverse material against them. It was on such account on the basis of the enquiry report dated 15.04.2013, the show cause notice was issued on 26.04.2013 (Annexure P-3), which was duly replied to the extent that inquiry officer had not considered the correct facts and the FIR had already been cancelled.

9. It was in such circumstances, the departmental order was passed by the Superintendent of Police on 25.05.2013 (Annexure P-5) who had noted that the complainant had turned hostile in view of the threat on account of the future consequences. It was noticed that there were serious allegations against defaulters and their absence also stood proved. Therefore, 5 annual increments as such were stopped, apart from the fact that nothing was to given to them more for the suspension period from 22.08.2012 to 20.10.2012. The Inspector General of Police had dismissed the appeal on the ground that punishment awarded was justified on the gravity of misconduct and the revision petition had been dismissed by the

compromise between the parties and police officials had shown total high-handedness and lowered the image of police department in the eyes of general public and deserve no sympathy.

10. Above sequence of events goes on to show that the misconduct was serious and further has been strengthened by the fact that the police officials prevailed immediately upon the complainant party on account of the dismissal of the anticipatory bail application. Thereafter in view of which cancellation report had also been submitted by their fellow officials in which notice was issued to them, the complainants fell in line and accepted the cancellation report and stated that they have no objection. The same, thus, would go on to show the misconduct on the part of the present appellant was consistent as even thereafter he prevailed upon the complainant party to ensure that they were not to be criminally prosecuted.

11. In such circumstances, we are of the considered opinion that the learned Single Judge was well justified in holding that the image of the police department had been lowered on account of the misconduct and threat in open public. It is settled principle of law that once the procedure as such was duly complied with by holding a departmental proceedings and the sequence of events show the preponderance of probabilities which is required in a departmental proceeding go on to show that the misconduct stood proved, the punishment which has been imposed upon the police officials does not suffer from any infirmity and neither it seems disproportionate to the misconduct in question. It has also been brought to our notice that the other delinquent official has chosen not contest the said punishment, which was imposed upon him.

12. In such circumstances, we are of the considered opinion that there is no infirmity or illegality in the order of the learned Single Judge,

who has rightly not gone into the issue whether the punishment was disproportionate to the misconduct as per settled principles of law.

13. Resultantly, there is no merit in the present appeal and the same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

15.12.2022
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes