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

**CWP-15356-2016 (O&M)
Date of decision : 17.01.2023**

Bikramjit Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. APS Rehan, Advocate
for the petitioner.

Mr. Sehajbir S. Aulakh, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari seeking quashing of the order dated 3rd of December, 2013 (Annexure P-1) whereby punishment of forfeiture of approved service of one year without future effect has been awarded to the petitioner and order dated 5th of June, 2014 (Annexure P-2) whereby the departmental appeal preferred by the petitioner was rejected and punishment was enhanced to forfeiture of approved service of one year with permanent effect and that order dated 20th of October, 2014 (Annexure P-3) as also order dated 4th of April, 2016 placed on record at Annexure P-4 whereby the departmental appeal of the petitioner stands rejected.

2. While issuing notice of motion following order was passed :-

“It is submitted that the petitioner had mistakenly filed the Second Appeal after his first Statutory Appeal against the original punishing order dated 03.12.2013 (**Annexure P-1**), which was dismissed by the DIG on 12.03.2014, wherein the impugned order dated 05.06.2014 (**Annexure P-2**) has been passed by the Inspector General of Police, Intelligence, Punjab, Chandigarh/respondent No. 3, whereby a minor punishment of stoppage of one increment '*without cumulative effect*' has been enhanced to stoppage of increment '*with cumulative effect*'.

It is *inter alia* contended that the filing of the non-statutory Second Appeal would not vest jurisdiction with the Appellate Authority to pass the impugned order dated 05.06.2014 (**P-2**) enhancing the punishment.

Notice of motion for **16.02.2017.**”

3. Reply on behalf of State has been filed wherein there is no justification afforded apart from repeating that the petitioner was guilty of grave misconduct.

4. The issue in the present writ petition would be “*whether the order passed in the second appeal which was not even maintainable w.r.t. enhancement of punishment can be sustained.*”

5. Admittedly, there is no provision which provides for second appeal. Apart from this, State Counsel has not been able to show any provision of law wherein the Appellate Authority can be said to be clothed with the power to enhance the punishment on the appeal preferred by the delinquent employee. Moreover no notice was issued to the petitioner before awarding enhanced punishment by the Authority granting the same.

6. Resultantly, the impugned order dated 5th of June, 2015 (Annexure P-2) cannot be sustained and is thus ordered to be set aside.
7. Writ petition stands allowed accordingly.

January 17, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No